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A

COLLECTION

OF

SCARCE AND VALUABLE

TRACTS,

ON THE MOST

INTERESTING AND ENTERTAINING SUBJECTS:

BUT CHIEFLY SUCH AS RELATE TO THE

HISTORY AND CONSTITUTION

OF

THESE KINGDOMS.

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SELECTED FROM AN INFINITE NUMBER IN PRINT AND MANUSCRIPT, IN THE ROYAL, COTTON, SION, AND OTHER PUBLIC, AS WELL AS PRIVATE, LIBRARIES;

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THAT OF THE LATE LORD SOMERS.

THE SECOND EDITION,

REVISED, AUGMENTED, AND ARRANGED,

BY

WALTER SCOTT, Esq.

VOLUME SIXTH.

The bent and genius of the age is best known, in a free country, by the pamphlets and papers that come daily out, as the sense of parties, and sometimes the voice of the nation. PREFACE TO KENNET'S REGISTER.

Judex qui aliquid statuit, una parte audita tantum et inaudita altera, licet æquum statuerit, haud æquus fuerit.
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TRACTS

DURING

THE COMMONWEALTH.

FIRST CLASS.

ECCLESIASTICAL TRACTS.

THE

SOMERS

COLLECTION OF TRACTS.

THE COMMONWEALTH.

FIRST CLASS.

ECCLESIASTICAL TRACTS.

An Answer to Sixteen Queries touching the Rise and Observation of Christmas, propounded by Mr Joseph Heming, of Uttoxeter.

Anno 1654.

There were still, it seems, left, in the deepest distress of the church of England, some of her divines bold enough to defend the cause of her ritual and established festivals against the triumphant sectaries. The following answer seems to have arisen upon a public challenge from a puritan divine, and it is written with great temper and learning.

THOUGH, if we consider the time since the fore-going treatise was publish'd, it being five years compleat last April, 1649, we might rather insist upon an answer from our opponents, than take notice of their queries, which to multiply into scores or hundreds is nothing difficult even to the meanest sophister; yet lest our christian solemnity should suffer by our silence, and for the satisfaction of this querist and all others whom the spirit of contradiction and by-ends have not made uncapable of the truth, we shall briefly and clearly return our resolution to each particular; with reference, as occasion shall be, and that often is, to what hath been above deliver'd; it being altogether improper and needless to make repetition.

QUERY I.

Whether such religious Customs as are binding to all the Churches of Jesus Christ ought not to have sure footing upon the Word of God, or apostolical Practice?

Answer.

We must here distinguish of religious customs: Some are religious absolutely, some respectively. Customs absolutely religious have sure footing upon the word of God, either in express terms, or by evident consequence; as the people's assembling to God's service, the celebration of the sacraments, and the like. These are absolutely and ever binding to all the churches of Jesus Christ. Customs respectively religious, are such, as in respect of their matter, manner, end, are religious, but have their institution from the practice and authority of God's church; of which number is this observation of the nativity; the matter whereof is our Saviour's birth; the manner is with preaching, prayers, thanksgiving, alms, and a liberal, yet sober use of God's creatures; the end is the honour of Christ and our own edification. These customs, though in themselves things indifferent, yet in respect of the church's authority become binding; and the wilful contempt of them is a contempt of authority, a scandal and offence to the church, which by the joint consent of all protestant divines, is a sin against the moral law. [1] Your query then contains a double error:

First. It implies a misunderstanding of the nature of our festival, for we esteem it not (as you propound) amongst customs absolutely religious.

Secondly. By the disjunctive *or*, you insinuate, that such customs as have sure footing upon apostolical practice, are absolutely religious and binding to all christian churches, which is false; for it is the apostolical precept, not apostolical practice, that makes a custom absolutely religious and universally binding. The practice of our Saviour himself and of his apostles with him, and of the church to boot, [2] did not change the nature of things indifferent, but as they used them freely, so they left them free. We read that the holy communion was celebrated at the time of supper by our Saviour and his disciples,[3] by the disciples and the church at Troas,[4] by the church at Corinth;[5] and yet who will say, that the celebration of the communion at that time is a custom absolutely religious, hath authority of divine precept and bindeth all the churches of Christ?

QUERY II.

Whether you can substantially prove that Christ was born on the 25th of December? and what your Proofs are?

Answer.

If the full consent of clear and undoubted records, if the testimony of the antient Greek and Latin churches, if the general acknowledgement of those that profess chris-

[1] See our second section. Also Harmon. Confess. fidei. Sect. 16. Acts and Mon. vol. 1. page 5. Col. 8. Mr Edward's Treatise against Toleration. [2] As Mr Scudder would have in his Christian's Daily Walk, c. 6, p. 158. [3] Matt. 26. 20, 26. [4] Acts 20. 6, 7. [5] 1 Cor. 11. 21.

tianity, be substantial proofs, (which no man of common sense will deny) then have we substantially proved that Christ was born on the 25th of December.[1] And truly, upon the like reasons as our opponents make scruple at this, may they question whatever is chronicled. Admit, we should affirm, that William the Conqueror was crown'd at Westminster on the 25th of December, and for the authority thereof quote Roger de Hoveden, Mathew Paris, and others; might not one ask, as they do of Christ's birth-day, How could this be? King Harold was high and puissant in October before, and a soldier cannot soon believe that so wise a prince as Duke William was, would in winter with his southern people wage war in a northern country: Neither was it the fit time for armies to be in the field; and it is not probable, that this kingdom was conquered in the space of two months.[2] But what sense is in such kind of arguing we leave to the judgment of any rational man, and for a perfect solution of this query refer you to ours ixth section.

QUERY III. and IV.

Whether the Celebration of that Day can be clearly warranted by you from Scripture? and what your Scriptures are? Or whether you can clear it by sound consequence from the New Testament, though not set down there in totidem verbis?

Answer.

Both these Queries arise from a mistaken principle; for the observation of this feast (as we said before) is not a custom absolutely religious, whose warrant indeed is from scripture, either expressly or by sound consequence; howbeit we must note, though this anniversary festival hath no particular and special scripture warrant, whereby this very day is set apart to this very end; yet it may have and hath a general scripture-warrant, under which it is authorised: For the observation of such anniversary feasts is just and warranted from the equity and sense of the ceremonial law, which the apostle (1 Cor. ix. 10.) sheweth to be still in force, and therefore the legal anniversary feasts do in equity require, and even now teach, that there ought to be gospel anniversary feasts assigned for extraordinary thanksgivings and rehearsals of God's extraordinary benefits to his people.[3] As then from the grounds and reasons of God's commanding the weekly feast of the Sabbath, (though the Sabbath be now abolished,)[4] our church hath good authority and warrant to ordain one day in seven to be kept holy, and guided by the example of the primitive churches and constant practice of Christians in all ages, observeth, and to that purpose ordaineth, the first day of the week, under the title of the Lord's day: So from the grounds and reasons of God's commanding the legal anniversary feasts, (though those feasts be now abolished,) our church hath good authority and warrant to ordain solemn days of thanksgiving for God's extraordinary benefits; and guided by the example of the primitive churches and constant practice of Christians in all ages, observeth, and to that purpose ordaineth (amongst other feasts) the 25th of December, under the title of the Day of Christ's Nativity.

[1] See our sixth section. [2] Compare this with Beroaldus, Chron. l. 3. cap. 8, and Broughton's Advertisement of Corruptions, p. 43, 44. [3] Ames. Medul. Theol. l. 2. c. 15. n. 16. [4] Gal. 4. 4, 5, 9, 10. Colos. 2. 14, 15, 16, 17.

QUERY V.

Whether you can clear the Celebration of that Day by universal Tradition ;

Answer.

This word *universal* must here be taken in a safe sense; for, as of doctrine, so say divines of tradition, to make it universal it is not requisite that all Christians should profess it throughout every age; for then no doctrine can be styled catholick or universal, because there is no doctrine which hath not at some time or other, through weakness of judgment, pride of wit, or self-ends, been drawn into question if not opposed;[1] there must be heresies,[2] and false prophets ever were and will be.[3] But that tradition is truly termed universal, unto which the fathers, martyrs, and godly men of the christian church have in all ages to this present time borne witness,[4] both by exhortations and examples: And such is the tradition of solemnizing our Saviour's birthday; as we have abundantly proved in our fifth section, whereto we refer.

QUERY VI.

Whether (in case it can be evidenced by none of these, viz. plain Text, solid Inference, universal Tradition) it be not a meer Human Invention, and so Will-worship? And how you will one Day acquit yourselves before God, for placing and crying up Men's Inventions, instead of the Institutions of Jesus Christ? And whether it were not faithful Dealing with poor simple People to tell them that you have neither of these to warrant it?

Answer.

False it is and slanderous, that we cry up the celebration of this day as an institution of Jesus Christ: And yet we do and must deny it to be a meer human invention and will-worship; because the observing thereof is not only approved by universal tradition, but (as we shewed before) hath sacred authority and scripture-warrant in the general, though not in special;[5] of which kind are, set fasts, weekly or monthly lectures, daily prayer with our families, the singing of David's Psalms in metre by a whole congregation, and divers other Christian practices:[6] Whereas that worship which the apostle calleth will-worship and condemneth, is wholly destitute of scripture-warrant as well general as special, and hath no other ground and original but the vain opinion, will, and fancy of men; as, the worshipping of angels, and placing an absolute holiness and necessity in things indifferent.[7] We desire, therefore, our querist and his followers to consider well and lay to heart, how they will one day acquit themselves before God, for slandering their brethren, for calling good evil,[8] and crying down that for a meer human invention and will-worship, which hath scripture-authority and the consent of the Christian church in all ages. And were it not faithful dealing in these

[1] Procopius, lib. 3. Goth: [2] 1 Cor. 11. 19. [3] 1 John, 4. 1. [4] Vincen. Ler. contra hæres. cap. 3. [5] See our answer to the third and fourth query. [6] Ursin. Explicat. Catechet. quæst. 91. Sectio 1, & quæst. 96. [7] Colos. 2. 18, 21, 22. [8] Isa. 5. 20.

men and their apparent duty, to tell poor simple people that they have unawares slipt into error and misled them, and will hereafter (like Saint Paul) labour the more abundantly [1] in asserting and divulging the truth.

QUERY VII.

Since Days and Times commanded by God himself to be observed under the Law were and are unlawful under the Gospel; whether Days and Times commanded by Men, and not God, under the Gospel, are not less lawful?

Answer.

This scruple is easily removed, if we consider the different natures of those days under the law and these under the gospel: They were absolutely necessary, these in themselves are things indifferent; they were parts of God's publick worship, these are attendants and subservient to God's worship;[2] they were instituted by God himself, these are established by Christian magistrates, God's ministers;[3] they, as a grievous and insupportable yoke,[4] were abolished at Christ's death,[5] these as things tending to decency and order in the church are retained by Christ's warrant.[6] Now, what ground and reason there is to infer the unlawfulness of the latter from the unlawfulness of the former: To conclude gospel-days of thanksgiving, allowed by Christ and set apart by Christian magistrates, to be unlawful, because legal feasts abolished by Christ, and which to re-admit is to make Christ of no effect,[7] are unlawful: Let men of sobriety determine. And here necessary it is to take notice; though after the ascension of Christ we find the apostles at some of the Jewish feasts, as the Sabbath and Pentecost;[8] yet did they not observe them as legal ordinances, but as things indifferent: All days were to the apostles alike,[9] they made no valuation or difference of first or last, but every day of the week they came together, every day they prayed, preached, administred the sacrament of the Lord's Supper.[10] Indeed Saint Paul, in a time of famine,[11] did exhort the Corinthians (according as he had given order to the churches of Galatia) that, upon the first day of the week, every one should put aside by himself, and lay up as God had prospered him, for the relief of their distressed brethren at Jerusalem:[12] But this exhortation gives no preheminence to the first day of the week, nor implies a command that all Christians should weekly meet on that day to God's publick service: The text speaks only of giving alms, every one apart by himself; not a syllable of meeting, or an universal command, or of God's publick services, prayers, preaching, and sacraments. For, by the very words and scope of the apostle, it is evident that his order and exhortation was particular and temporary, to particular churches, upon a particular and temporary occasion,[13] and therefore such regard of the day did only concern those particular churches, and that for a time. Who will say, when the famine

[1] 1 Cor. 15. 10. [2] Ursini Explicat. Catechet. Quæst. 92. Sect 2. & quæst. 103. de Ceremon. Sect. 2. [3] Rom. 13. 4. 6. [4] Matth. 23. 4. Acts 25. 10. [5] Mark 15. 38. John 19. 30. Heb. 9. 10. [6] 1 Cor. 14. 40. [7] Gal. 5. 1, 2, 3, 4. [8] Acts 2. 1, and 13, 14, 42, and 17. 2. and 18. 4, 21. and 20. 16. [9] Rom. 14. 3. 5. 6. 17. Col. 2. 16. Acts 2. 46. and 5. 46. [10] Cornel. Tacit. lib. 12. [11] 1 Cor. 16. 1, 2, 3. [12] As was that in the 20th verse of the same chap. "Greet ye one another with an holy kiss." See Mayer's Commentary upon Romans 16. 16. [13] Modicam unus quisq; stipem menstrua die, vel quando velit, et si modo possit, apponit. Nam nemo compellitur, sed sponte confert. Hæc quasi deposita pietatis sunt. Nam inde non aliis quam egenis alendis dispensatur. Tertul. advers. Gentes, cap. 39.

was over, that the Galatians and Corinthians were still bound to send alms to their brethren at Jerusalem? And might not the church at Antioch on the second day of the week, the saints at Philippi on the third, and the brethren in Cilicia on the fourth, give alms to relieve the wants of their brethren at Jerusalem, notwithstanding this order and exhortation of Saint Paul to the churches of Galatia and Corinth? May not we on other days and not on the first, yea, but once a fortnight or month (as occasion shall be) contribute to the relief of our distressed brethren? Assuredly we may.[1]

QUERY VIII.

Whether the true and genuine Interpretation of Christmas be Christ-man? And whether to persuade People 'tis so be not to abuse and delude them? And whether we may not as well interpret Candlemas Candle-man, Michaelmas Michæl-man, as Christmas Christ-man?

Answer.

That mass and man are words of the same root and meaning is (we grant) an absurd, vain, and groundless conceit; nor do we suppose the allegation of so perswading people, to be any other than a slanderous figment of our querist. For (as we have shewed above)[2] our English Saxon[3] word mass is borrowed from the Latin word *missa*, and signifies publick service, the Lord's Supper, an offering; whereby there appears an excellent and remarkable significancy in this title Christmas day, implying the day of Christ's publick service, the day of celebrating Christ's holy communion, the day of offering up ourselves, and thankfulness unto Christ; for that Christ, the son of God, the brightness of his father's glory, and express image of his person,[4] in whom dwelleth all the fulness of the God-head bodily, did vouchsafe for our sakes, so low a condescension as to take upon him the form of a servant,[4] and this day to be born of a pure virgin. And as for the use of this word masse, we have (by the confession even of those that wave it) the example of Christians in the very time of the apostles,[5] the antient custom and approbation of God's church,[6] the authorities of Tertullian,[7] Cyprian,[8] Ambrose,[9] Augustin,[10] and other eminent fathers who flourished long before the days of popery:[11] Yea, in a sermon on Easter-day translated out of Latin into the Saxon tongue, *anno* 996, and in divers Saxon epistles,[12] before ever the popish doctrine of transubstantiation was heard of in this island, we find the word masse sometimes expressing publick service, sometimes the Lord's supper; and holy days were by the Saxons called masse-days, because on those days God's publick service and usually the holy communion was celebrated.[13] Wherefore this word masse is neither popish nor invented by papists; and is not only in the church of England, but hath the testimony of those glorious and renowned churches of Germany, whose zeal in protesting for the faith first acquired to themselves the name of protestants;[14] our churches (say they) are falsly accused that they abolish the mass; for the mass (meaning the Lord's Supper) is retained with us, and celebrated with the highest reverence.[15] And if words must

[1] See our third section. [2] Most words of one syllable in English are Saxon originally. [3] Heb. 1. 2, 3. [4] Philip. 2. 7. [5] Vide Observat. in Harm. Confes. Sect. 14. ad August. Act. [6] Ursin. Expl. Catechet. quæst. 80. [7] Lib. 4. adversus Marcionem. [8] Lib. 3. Epist. 14. [9] Lib. 5. Epist. 33. [10] De Tempor. Sermon. 237. [11] Perkins. vol. 2. Demonstrat. of the Problem. Juel. Apolog. pag. 42. [12] Acts and Mon. vol. 2. fol. 448. 30. and fol. 451. 60. [13] Testimon. Antiqu. p. 79. [14] Sleidan. Comment. lib. 6. fol. 101, 102, 109. [15] Vide Harm. Conf. Sect. 14. August. Confess. Artic. 1.

be therefore cast out and abominated, because they are profaned by papists; then must these words *scripture, church, baptism, Lord's supper, prayer, preaching, sacrament, alms, penitence,* and many more, be cast out, which are by them no less abused unto superstition, profaneness, and idolatry, than the mass.

QUERY IX.

Whether the Saints are bound to rejoice in the Birth of Christ on that Day men superstitiously call Christmas, more than at other Times; and whether the Lord's Day be not the Day appointed for them to rejoice on.

Answer.

It is false that men superstitiously call this day Christmas; for though they cannot, without solid conviction of the unlawfulness, reject the use thereof, yet do they not place any religion in, or esteem of that title, more than of Christ's birth-day, the nativity of Christ, the day of the nativity, or the like, which they ever did and do use as names indifferent. But for our special joy on that day, if it be the duty of Christians to hear the church,[1] if in things just the magistrates commands be obligations, and men must needs be subject thereunto, not only for wrath but also for conscience sake,[2] which no saints or children of God will deny, then are saints bound to express their rejoycing in the birth of Christ, more especially on this day set apart for this end, than at other times. Do not we on every fifth of November (as the Jews did on the days of Purim,[3]) more especially than at other times, declare our joy in God's temporal deliverance of our state? And if a corporal and temporal mercy unto a nation may be yearly recorded with publick joy and thanksgivings unto God, much more may we with rejoicings, prayer, and praises, record God's spiritual, everlasting, and unspeakable mercy, in Christ's birth, the good tidings of great joy unto all people.[4]

Indeed, the Lord's day is appointed for us to rejoice on; yet it is not the day, so as to extinguish or lessen our duty on other days appointed also to God's service. For by whom and when was the Lord's day appointed? Throughout the Old Testament we have no intimation of it. Cyprian's saying that circumcision was a type or figure of Christ's resurrection and our solemnity on the eighth day,[5] is rather his conceit than judgment; for in that sacrament neither sign nor actions bear the least analogy or similitude with Christ's rising from the dead. And, to speak truly, how can the day of Christ's resurrection be termed the eighth day? In reference to the week it was the first day,[6] in reference to his death and burial, the third day;[7] in reference to the month, the seven and twentieth day;[8] and it can no otherwise be termed the eighth, than because it next follows the seventh, just as one is thirteen o'clock, because it is the next hour after twelve. Besides, should we admit this typical fancy, then must the day of Christ's resurrection be no solemn or holy-day, but a common ordinary day, as was the day of circumcision; else the type and thing typified will not correspond.

As for the day of the fourth commandment, that things may be clearly understood, we must note, that the moral law and the law of nature are one and the same;[9] and it

[1] Matth. 18. 17. [2] Rom. 13. 5. [3] Esther, 9. 18, 19, 28. [4] Luke, 2. 10.
[5] Lib. 3. Ep. 13. ad Fidum. Circumcision was on the eighth day, because the child was unclean till the eighth day. Levit. 12. 2, 3, & 15. 19, 24. [6] Mark, 16. 9. [7] Matth. 12. 40. John, 2. 19.
[8] August. de Trin. l. 4. c. 5. Chrysost. Exposit. in cap. 1. Lucæ. [9] Polan. Syntag. Theol. l. 6. cap. 10. fol. 2267. Bucan. loc. com. 19. sect. 11. Junius, Thess. Theol. loc. 23. Sr. W. Ral. Hist. l. 2. c. 4. sect. 9.

is called the moral law, that is to say, the law of manners, because it is an everlasting rule for the manners and duties of men, both towards God and towards their neighbour.

Next, we must know that a Sabbath is a set time appointed by just authority to God's public service.[1] The Sabbath is a Sabbath under the law by God's command to be weekly observed on the first day; so that the Sabbath and the Lord's day differ specifically, that is, are of distinct natures and kinds. Hence it is that the fourth commandment is partly moral, partly ceremonial;[2] moral and natural, in that it commandeth a Sabbath, or set time, to be appointed for God's public service, unto which, by the secret instinct of nature, all people and nations, though never so heathenish, barbarous, and ignorant of the true God, did and do by their customs and practice bear witness;[3] ceremonial, in that it commandeth the Sabbath, or seventh and last day of the week, on which God rested from his work of creation, to be kept holy.[4] And that this was ceremonial appeareth, first, because the Lord himself, numbering the ceremonial feasts, placeth the Sabbath in the very front and head of them.[5] Secondly, because the Sabbath was a particular remembrance to the Israelites of their deliverance from Egyptian bondage.[6] Thirdly, because the Sabbath was to distinguish and divide the Jews from the Gentiles,[7] which middle wall or partition Christ, our peace, hath broken down.[8] Fourthly, because the Sabbath was a type or sign of sanctification and spiritual rest, by the promised Messiah,[9] the substance and accomplishment of what was shadowed.[10] Lastly, the apostles prohibition of the necessary observance and divine esteem of the Sabbath day,[11] without excepting the seventh day, is a clear proof against the old sabbatarians; and as well that prohibition as the lawful change of the Sabbath or seventh day of the week, which was our Saturday, into the Lord's-day, or first day of the week, which is our Sunday, are manifest proofs against the new sabbatarians, that the Sabbath day was ceremonial. For we must not, we cannot, suppose that the apostle should perswade Christians to a light esteem of any part of the moral law; nor could that which is moral be changed.[12]

Groundless, then, and erroneous is this opinion, as well of the old sabbatarians, who teach that the seventh day is moral, as of the new sabbatarians, who would have a seventh day moral.[13] For by the dictates and discourse of mere natural reason, neither the seventh nor a seventh has more evidence to be kept holy than *the* or *a* fifth, sixth, eighth, tenth, twentieth day: And we challenge all sabbatarians, old or new, to deliver freely their judgment and conscience, whether, if they had never seen or heard of the Scriptures, they could by the book of nature have found out that God in six days finished the creation, rested on the seventh, and therefore ordained *the* or *a* seventh day to be weekly kept holy.[14] If they say they could, let them shew it, and the learned will for ever do them homage. If they say they could not, as most certainly they cannot, then is neither *the* nor *a* seventh day's observation moral. Much less moral is the first day of the week, or Lord's-day, of which there is not the least title or glimpse in the fourth commandment. 'Tis true, in this age and land of novelty, some reasons and far-fetched circumstances have been dispersed among the people, to perswade the morality of *the* or *a* seventh, and thence to insinuate the morality of the Lord's day; but

[1] Ursin. Expl. Cat. Quæst. 103. [2] See our proofs at the end of our answer to this query. [3] Pol. Synt. Th lib. 6. c. 10. Ursin. Expl. Catech. Quæst. 103. [4] Rom. 2. 14, 15. Aristot. l. 7. Polit. c. 9 & l. 1. Topic. c. 11. Fenest. cap. de Sacerdotiis. Rosin Antiqu. Rom. l. 3. & 4. Grimston's Estates, fol. 254, 255, 758, 759, 771, 778. [5] Compare Luke 23. 56. with Exod. 20. 11. [6] Levit. 23. [7] Deut. 5. 15. [8] Exod. 31. 17. [9] Ephes. 2. 14. [10] Exod. 31. 13. Hebr. 4. 4, 5. 9, 10, 11. [11] Col. 2. 16, 17. [12] Col. 2. 14. 16, 17. [13] Polan. Synt. Theol. lib. 6. c. 10. fol. 22. 63. D. [14] See the Practice of Piety. Dr Twisse, Walker, Ley, Shepard, Nicholas, and Rich. Byfield, Martindale, Abbot, in their Treatises of the Sabbath. Scudder, in the Christian's Daily Walk, &c.

the shallowness and ill composure of their arguments is so obvious, even to men of indifferent capacity, that we shall only touch upon the chief, whereby the rest may be judged.

REASON I. If the observation of *the* nor *a* seventh day be moral, then are there but nine commandments in the moral law.

ANSW. The inference is false; for (we have proved) the morality of the fourth commandment consists not in observing *the* or *a* seventh day, but in keeping holy a Sabbath day, or time set apart to God's publick service, which is our bounden and perpetual duty.

REASON II. The Sabbath was instituted in Paradise, whilst Adam retained his innocency and perfection; therefore the Sabbath is not ceremonial.

ANSW. This is often urged by our new sabbatarians. Though duly considered, it makes nothing at all to their purpose: for, should we grant the Sabbath or seventh day of the week to be moral and unchangeable, then what would become of their new Sabbath? But, indeed, the antecedent is false; for God did not institute the Sabbath till he rested, and that was on the seventh day;[1] whereas, Adam fell on the day of his creation, which was on the sixth day,[2] and at evening was cast out of Paradise.[3]

REASON III. The Sabbath was appointed before Moses's time; therefore the Sabbath was not ceremonial.

ANSW. We deny the consequence; for sacrifices and circumcision were appointed long before Moses,[4] yet were ceremonial and abolished in Christ.[5]

REASON IV. Heathens observed the seventh day as an holy day; therefore the seventh day's observation is moral and natural.

ANSW. This argument is likewise false; for such heathens had not the seventh day's observation by instinct of nature, but by imitation from the Jews, as some amongst them had and still have circumcision and sacrifices:[6] And that is not natural with some people, but what all observe,[7] which never was nor will be proved of the seventh day.

REASON V. The word Sabbath signifies rest; the Lord's day may be called the Sabbath.

ANSW. This is a syllogism of the fourth figure, absurd and ridiculous; for in the same way, John might be called Adam, because the word Adam signifies man,[8] and John is a man. So might St Dunstans be called the Temple, because the word signifies church, and St Dunstans is a church. But we will list not to spend time in breaking straws, and therefore we shall not pursue this point, nor take any strict survey of manifold contradictions, falsities, and notorious riff-raff, wherewith most of our new Sabbatarian treatises abound; only we desire these profound sophisters to study well the first leaf of their Accidence, and they will find a difference betwixt proper names and common. Now, from the foregoing premises, this conclusion is evident, that since the moral part of the fourth commandment enjoins only a Sabbath, not any particular and precise day to God's publick service, and the ceremonial part enjoyned only the Sabbath or seventh day, on which God rested from his work of creation, therefore the Lord's day, or first day of the week, on which Christ rose from the grave, is not by the fourth commandment appointed to be kept holy.

[1] Gen. 2. 2. 3. [2] Compare Gen. 2. 7. 21, 22. and c. 3, 1, with chap. 1, 27, 28. [3] Chap. 3. 8. 24. See the Practice of Piety, printed by R. Y. p. 274. Willet, his sixfold Comment. on Gen. c. 8. q. 32. The Annot. of the Assemb. of Divines on Gen. 3. 24. [4] Gen. 4. 3, 4 and 8. 20. and 17. 9, 10. [5] Acts, 15. 24. 28, 29. Galat. 5. 2. Hebr. 9. 9, 10. [6] Joseph. contra Ap. l. 1. Brerewood's Enquiries, chap. 12. [7] Jus naturale est quod apud omnes homines eandem habet potentiam. Aristot. l. 5. Ethic. [8] In the Hebrew tongue, as Sabbath signifies rest; whence as the Latins from the Greeks, so the English from the Latins, have a Sabbatism, to sabbatize, which signifie a resting, to rest. And did printers distinguish the noun appellative Sabbath, from the proper name The Sabbath, by a great letter, as in all languages they ought to do, our new Sabbatarians might find the Lord's day called Sabbathum, a Sabbath or Rest; seldom or never Sabbathum, the Sabbath.

Nor do the gospels make any mention of the observing the Lord's day. Those prophetical words of our Saviour, Pray ye that your flight be not in the winter, neither on the Sabbath day,[1] though we could prove them undeniably to be figurative,[2] and are so understood by some of the new Sabbatarians;[3] yet, taken litterally, import no more but that the Sabbath or seventh day was kept at the time of Jerusalem's destruction,[4] about thirty nine years after the death of Christ:[5] Which is most true, as also to this very day the Jews observe it with other Mosaical rites and ceremonies. But what is their superstitious and unwarranted keeping the Sabbath or seventh day of the week, to the Christians celebration of the Lord's day or first day of the week? Indeed, the evangelist Saint John specifies two several times wherein Christ after his resurrection appeared to his disciples when they were assembled: One was, at evening the same day he rose from the dead, being the first day of the week.[6] But this text affords no foundation at all for their conceit, who would have the disciples then assembled to celebrate the day of Christ's resurrection: for,

1. The day was spent, or very little of it remaining, before they assembled.[7]

2. The scriptures expressly tell us why they met; they were assembled for fear of the Jews,[8] and what they did being met; they supp'd together, and their meat was broiled fish and an honey-comb.[9] Here's not a word of preaching, and other solemn duties requisite to a solemn day.

3. The coming of Mary Magdalene and others to the sepulchre, and bringing spices with intent to anoint our Saviour's body;[10] and the travelling of the two disciples from Jerusalem to Emmaus upon their private occasions,[11] are clear testimonies that that day was, in their repute, a common ordinary day.

4. And lastly. The disciples, at their first assembling, did not believe the resurrection of Christ;[12] and therefore, when Christ appeared unto them as they sat at meat, he upbraided them herein with their unbelief and hardness of heart.[13] How then could it be that the cause of their assembling was to celebrate the day of Christ's resurrection? The other time wherein Christ did appear to his disciples assembled, was (saith the aforesaid evangelist) after eight days;[14] which word *after* shews that the eight days were fully compleat and ended, and so this meeting of the disciples falls on the ninth day; now accompt nine, either including the day of Christ's resurrection, and their meeting was on the second day of the week; or nine from the time of his former appearance to his disciples, excluding the day of his resurrection, (which is more probably the sense of the gospel) then was their meeting on the third day of the second week; and it can no way be assigned to the first day of the second week, unless we say as our new Sabbatarians,[15] that after eight days must be interpreted, before eight days, to wit, on the seventh, which is most ridiculous.

Come we to the Acts, and we read not there that the apostles did practise or appoint the observation of the first day of the week above the rest: It seems good (say they unanimously in that famous synod at Jerusalem) to the Holy Ghost and to us, to lay no further burthen upon you than these necessary things, that ye abstain from things offered to idols and from blood, and from things strangled, and from fornication.[16] As for that meeting of Paul and the disciples of Troas,[17] whether we respect the time or end

[1] Matth. 24. 20. [2] August. de consens. Evangel. lib. 2. c. 77. [3] Rich. Byfield. Doctrine of the Sabbath, p. 212. [4] Compare Matth. 24. v. 3. with v. 20. [5] Joseph. de Bel. Judaico. l. 7. Jun. comment. in Chronol. l. 5. [6] John 20. 9. 16. [7] Compare Luke 24. 29, 33. with John 20. 19. [8] John 20. 19. [9] Luke 24. 33, 41, 42. [10] Mark 16. 1. [11] Luke 24. 13. [12] Mark 16. 14. [13] John 20. 26. Note, that Christ saith, Matth. 16. 21. the third day I will rise again; not after three days, as Matth. 27. 63. Which shews how hard a thing it is for the wicked and natural man to understand God's word aright. [14] Acts 15. 28, 29. [15] A sect who wished to bring back the observation of the Jewish Sabbath. There was a subdivision of them called Traskites, from the name of their founder. See Pagit's Heresiographia. [16] Acts 20. 6, 7. [17] Matth. 26. 20. Mark 14. 17.

of their meeting, it makes nothing at all to the celebration of the Lord's day. The time is exprest to be upon the first day of the week, when the disciples came together to break bread, which all divines grant to be at evening [1] on Sunday night, and saith the text, they continued together till break of day. [2] Now what is this to the Lord's day? Did the first Christians, or must we keep our weekly feasts from the evening on Sunday night till break of day on Monday? Certainly none will say it: Besides it is a sacred principle with some of the new Sabbatarians, [3] that the time of celebrating the Lord's day does continue no longer than till evening according to the old levitical rule, From even to even shall ye celebrate your Sabbath. [4] How then can it be said without a contradiction to themselves, that this meeting of the disciples at or in the evening, when the time of celebration was past, was to celebrate the Lord's day? And for that the end of their meeting, prayer, preaching, receiving the Lord's supper, heavenly conference, these were to the disciples (not weekly, but) daily ordinary exercises; [5] and if from thence should follow a necessity of keeping the day holy, then must every day be kept holy, which is repugnant to God's commandment, [6] the doctrine of the apostles, [7] common reason.

In all those sacred epistles of Paul, [8] James, Peter, John, Jude, we have not one syllable of the Lord's day. That of the apostle Hebr. 4. 9. is not spoken of a weekly temporary rest, but of another; [9] a rest which he exhorteth us to strive to enter into by faith; [10] a rest in the Heavens, into which Christ Jesus our high priest is passed for us. [11] This rest (say interpreters) is a spiritual rest, [12] begun in this life by ceasing from sin and doing righteousness, but perfectly and everlastingly continued in life eternal; [13] which is so clearly the true sense of the apostle, that it is confessed by some of our new Sabbatarians. [14]

'Tis true, St John, who wrote his book called the Revelations about the year of Christ 96, [15] which was long after the decease of the rest of the apostles, saith that he was in the spirit, or (as some translations have it) he was ravished in the spirit on the Lord's day; [16] which shews indeed that the Lord's day was of note at that time in the christian church, but for the celebration thereof, he neither commands it nor commends to us; as he found it, so he leaves it, a thing indifferent.

Wherefore we conclude, that the observation of the Lord's day hath no precept, no practice throughout the scriptures, and consequently is no day appointed by God, Christ, or his apostles to be kept holy.

Here some may ask, When then began the Lord's day to be observed? Who appointed it? And upon what grounds was it appointed? We answer to the first, though the exact time be not recorded when Christains began to keep holy the Lord's day, [17] yet from that of John [18] we may gather the observing thereof is very antient, and was sometime before John wrote that book; [19] and it hath been undeniably observed by God's church in all succeeding ages to this day. To the second we answer, the observation of the Lord's day is appointed by the christian church. The church (saith Ursin) out of her own will and pleasure, chose the first day of the week for certain reasons. [20] The church (saith Napier) transported the exercises of Saturday to the Sunday. [21] The church (saith Willet) changed the holy day of rest from the seventh day to the first, which is the Lord's day. [22] But we shall not insist upon the testimonies of particular men, since

[1] Matth. 26. 20. Mark 14. 17. [2] Acts 20. 7. 11. [3] Shepard's Doctr. of the Sab. part 3. Thes. 76, 77, 90. [4] Levit. 23. 32. [5] Acts 2. 42, 46. ct. 5. 42. [6] Exod. 20. 9. [7] Ephes. 4. 28. 2 Thes. 3. 10, 11, 12. [8] That place in the 1 Cor. 16. 1, 2, 3. is cleared in our answer to the 17th Query. [9] Verse 8. 9. [10] Verse 11. [11] Verse 14. [12] Bez. annot. in locum. Bucan. loc. com. 39. sect. 16. [13] Ursin. Explicat. Cat. q. 103. sect. 1. [14] R. Byfield's Doctrine of the Sabbath, pag. 210. [15] Irenæus contra Hæret. lib. 5. [16] Revel. 1. 10. fui spiritu correptus. So Beza. [17] Quo tempore Christiani diem Dominicum ferieri cœperint non est memoriæ proditum. Magdeburg. Cent. 1. l. 2. cap. 6. [18] Revel. 1. 10. [19] Ley. Sunday a Sabbath, chap. 4. [20] Ex arbitrio elegit. Ursin. Expl. Cat. q. 103. sect. 1. [21] See Napier's Notes on the Revel. chap. 1. [22] Willet's sixfold Com. upon Exod. c. 20, quæst. 14.

we have herein the concurrent judgment of protestant churches, as may be seen at large in the Harmony of Confessions. Take thereout one instance. It is apparent (saith Auspurg) that the church appointed the Lord's day, to the end, that people should know when to meet together, and whosoever do think that, by the churches authority, the observation of the Lord's day was ordained instead of the Sabbath, as necessary, do very much err.[1] To the third demand we answer, that the church upon just grounds hath appointed the Lord's day to be kept holy, which grounds are these: First, the morality of the fourth commandment requireth set days and times to God's publick service; and therefore the christian church, for the performance of this commandment, and according to the liberty wherewith Christ hath made her free,[2] did amongst other days set apart the Lord's day to God's service;[3] and in respect of this general warrant it is, that divines do frequently say, the observation of the Lord's day hath authority from God's commandment. Secondly, the equity of the seventh day's observation under the law obliged the church to set apart the seventh day under the gospel, for it were disproportionable and an utter shame that Christians, in their duties and thanksgivings to God, should come short of those that were under the law, when their benefits are much greater.[4] Thirdly, the church, not placing any holiness in days, nor from an opinion of the necessity of keeping one day rather than another, did out of her own judgment freely and voluntarily choose the first day of the week for our seventh day's solemnity, and this free choice of the church is in part acknowledged by some new Sabbatarians: I profess (saith one of them,) [5] that I do not conceive there is any moral necessity that that day of the week on which Christ rose from the grave should be kept holy in the christian church rather than the day wherein he was born, or the day wherein he suffered on the cross, or the day wherein he ascended into Heaven. Howbeit, though no injunction or necessity be laid on the church, yet she wanted not certain perswasive reasons and inducements for refusing the last day of the week, and making choice of the first. Two reasons she had for refusing the last day of the week; one was, that by not observing the sabbath-day, Christians might understand they are now freed from the yoke of the ceremonial law: [6] The other was, that hereby a difference and distinction might be put betwixt us and Jews. [7] Likewise, the church had two reasons for making choice of the first day of the week; one in memory of the world's creation, which work God began on that day; [8] the other in memory of Christ's resurrection, who on the first day of the week rose from death; [9] and in regard that Christ, by his rising again, did mightily declare himself to be the Lord.[10] Therefore the church called the day of Christ's resurrection the Lord's day.[11] But here three things are to be noted: First, that the saying that Christ by his rising again did mightily declare himself to be the Lord, and the calling of Christ's resurrection-day the Lord's day, are spoken by way of affirmation, not by way of appropriation, as if Christ did at no other time, save at his rising, declare himself to be the Lord, and no day, save that of his resurrection, were the Lord's day; for this is false. Christ (we know) by his birth of a pure virgin, [12] did mightily declare himself to be the Lord, and therefore the day of Christ's nativity is also the Lord's day; yea, our Lord himself expresly calleth it his day, John 8. 56.[13] Again, Christ, by his sustaining the wrath of God for the sins of the whole world,[14] did mightily declare himself to be Lord, and therefore the day of Christ's passion is also the Lord's day; yea, many

[1] Sect. 16. and 17. [2] See the Auspurg Confess. in the Appendix to the Harm. of Confess. [3] Gal. 5. 1. [4] Func. Com. in Chron. lib. 3. Anno 324. [5] Bernard in his Treatise of the Christian Sabbath, chap. 2. [6] Ley. Sunday a Sabbath, pag. 12. [7] Polan. Synt. Theol. l. 9. c. 35. [8] Gen. 1. 1, 5. [9] Luke 24. 5, 6. Conventus hos die Solis facimus, quod hac die Deus mundum creavit, et eadem die Christus resurrexit a mortuis. Justinus. Apol. 2. pro Christianis. [10] Rom. 1. 4. [11] Inde a resurrectione Christi Ecclesia vocavit Dominicum. Junius de Eccles. l. 1. c. 4. [12] Matth. 1. 18. 23. [13] See the Annot. of the Assembly of Div. on this place. [14] John 1. 29. & 12. 47. & 19. 17, 18.

of the primitive churches, for the space of 290 years after Christ, observed this day as their weekly solemnity, until Constantine by imperial decree limited the Christians (for unity sake) to the observation of the first day of the week only.[1] Again, Christ by his ascending into Heaven in the presence and sight of his apostles,[2] did mightily declare himself to be the Lord, and therefore the day of Christ's ascension is also the Lord's day; so that, had the phrase and speech of the christian church so determined, the day of Christ's nativity, passion, ascension, or the like, might have been called the Lord's day, as well as Christ's resurrection-day is thus called. Our next observation is, that Christ by his resurrection caused or occasioned the first day of the week to be kept holy, and hence it is, that some antient writers have said, that Christ changed the Sabbath into the Lord's day,[3] Christ set the Lord's day apart;[4] not that Christ was the author of the said change and institutor of the Lord's day, but that Christ by his resurrection was the cause or occasion wherefore it was changed and set apart.[5] As we usually say of the fifth of November, the Papists made this an holy-day; not that Papists ordained it to be kept holy, but that the Papists by their powder plot were the cause or occasion, wherefore the church and state of England so ordained it. The third thing to be noted is, that Christ's rising again is a part of that work, not the whole work, which he performed for man's redemption; and is in itself no greater, nor more beneficial unto us, than his incarnation, birth, passion, and the like; for had Christ only risen again, and not suffer'd for our sins, what would his or our resurrection have availed? Nay, had Christ both suffer'd and risen again, and not been incarnate by the Holy Ghost of a virgin and made man, what had his sufferings and rising again been to us? Nay, grant all these, yet if Christ had not ascended, we could never have attained the end of our hope, which is heaven; for where the head is, there also must be the members; and if Christ our head were not in heaven, neither should nor could we expect it.

The result then and sum of all is, that, seeing the feast of Christ's nativity hath like warrant and allowance from scripture as the Lord's day, hath the same authority for its institution, is celebrated in memory of as great and wonderful a work of Christ, and as beneficial unto us as his resurrection; therefore the Lord's day is no more nor otherwise the day appointed for us to rejoice on, than the day of Christ's nativity.

QUERY X.

Whether Christmas-day ought in any respect to be esteemed above another of the Week-days? And whether People may not, without Offence to God, follow their lawful Vocations on that Day?

Answer.

From what we have already proved, the solution of this query is easy and obvious: for, in respect that Christmas-day being the day of our Lord's nativity, is the Lord's day; and by his spouse,[6] the church, set apart to God's publick worship and our souls edification, it ought clearly to be esteemed above any of the common week days; and for people on this day wilfully and contemptuously to follow their ordinary (though at other times lawful) vocations or callings, is, in the first place, a breach of the fourth com-

[1] Anno Dom. 324. Vide Func. Com. in Chron. l. 6. [2] Mark 16. 19. Acts 1. 9, 10. [3] Athanas. in Homil. de semente. [4] A Domino sacratus. Aug. de verb. Apost. serm. 15. [5] August. Epist. 119. ad Jan. [6] Cant. 4. 9.

mandment; for the day of Christ's nativity is a Sabbath or rest unto the Lord, and God will have us to keep holy the Sabbath or rest-day. Next, it is a despising and dishonouring of their mother the church, which whosoever are guilty of, not only sin against the fifth commandment, [2] but by our Saviour himself we are enjoyned to account all such as revolters from the christian faith, heathen men, and publicans.[3] Lastly, it is a ground and inlet to the violation of all orders and decency in God's publick service, which is expresly condemned in holy scripture: [4] and if to break God's commandments, to contemn his church's authority, to become heathens and publicans, and to overthrow all order and decency in God's services, be offences to God, then must we conclude, that to work or follow our vocations on Christmas-day is a great and high offence unto God.

QUERY XI.

Whether you think the Parliament and Assembly have erred and played the Fools in condemning and rasing out Holy-days not warranted in the Word? And whether to observe them be not highly to dislike and flatly to contradict (in point of practice at least) their proceedings in order to a Reformation?

Answer.

Thoughts are free, and every man's mind is to himself; yet, for satisfaction hereunto, noting by the way the incivility of the term *fools*, we answer, that the parliament is not truly alledged in this point: for, first, our querist grounds his allegation upon an order of the house, whereas the day of Christ's nativity and the like are appointed holy-days by act of parliament, [5] and an order cannot rase out an act; for it is a maxim (as well in our English laws as in the civil) that whatever it be, the same way it was made, the same way it is dissolved.[6] Secondly, by our querist's own confession, the order alledged condemns holy-days not warranted in the word, which does nothing at all concern the day of Christ's nativity; the observation of this day being warranted by the holy scripture, [7] instituted by the apostolick churches, and practised thoughout the reformed, [8] and therefore to observe this day and the like, is not to contradict, but to further the parliament's proceedings in order to reformation: They have often testified, and still do testify to the world, that their guide in the work of reformation shall be the word of God and the best reformed churches.[9] Thirdly, the procurers of the said order have been since detected, secluded the house, and by full consent of parliament declared to be no other than a party and faction, acted by the power of darkness, apostates from their first principles, bearing only the name of patriots and lovers of religion, and such reformers of popery and prophaneness as stood themselves in need of the Reformation: [10] Now of what price or esteem these men's votes and condemnings ought to be, let either conscience or reason determine. As for the assembly of divines, it is well known how they were chosen, and that their number does not much exceed 80 persons; [11] unto which we shall say no more but what one of their abettors and favourites has long ago been forced to acknowledge: There is (saith he) no resolution from any apostolical primitive pat-

[1] See the definition of a Sabbath in our answ. to the last foregoing query. [2] Perkin's Cases of Cons. l. c. 5. Sect. 5. [3] Matth. 18. 17. [4] 1 Cor. 14. 40. [5] 5. & 6. Edw. 6. c. 3. 1. Eliz. c. 2. [6] Nihil est ratione magis consentaneum quam eodem modo unumquodque dissolvere quo conflatum est. Judge Doderidge his English Lawyer, pag. 123. [7] See our answ. to Query 3 & 4. [8] See our 5th section. [9] The Parlia. Decl. Sept. 27, 1649. pag. 10. [10] See the aforesaid Decl. pag. 5. 7. 10. [11] Edward's Antapologia. pag. 256.

tern of the churches erected by the apostles of an assembly so chosen by magistrates,[1] to draw up a government and direction in worship for so many churches,[2] many of which churches have not so much as one of their members there.[3]

QUERY XII.

Whether (since most Men and Women in England do blindly and superstitiously believe Christ was born on that Day) preaching on it doth not nourish and strengthen them in that Belief?

Answer.

'Tis true, most men and women in England, and indeed all christian churches throughout the world, do believe that Christ was born on the 25th day of December, but this they do neither blindly nor superstitiously. Not blindly, for they have plenty of antient records, and the clear testimonies both of the Greek and Latin fathers, and other ecclesiastical writers, which bear witness thereunto:[4] Nor superstitiously, for they hold it no point of religion or article of faith, and therefore our querist need not fear that preaching on this day will nourish any matter of dangerous consequence. But, good God! how quick-sighted are our opponents in other men's ways, and how pur blind in their own? What talk they of superstition? Was there ever read or heard of a more superstitious generation than themselves? Do not most of them teach that it is unlawful to administer the sacraments on any other day than the Lord's day, and in any other place than the church? Do not most of them teach that it is unlawful to receive the communion without being confessed and approved by the priest and his consistory?[5] Do not most of them teach that it is unlawful to ring the bells in peal upon the Lord's day, to eat mince-pies, plumb-pottage, brawn in December, to trim the church or private houses with holly and ivy about Christmas, or to strew it with rushes about Midsummer; to stick a roasting piece of beef with rosemary, or to stick a sprig of rosemary in a collar of brawn when it is brought to the table; to play at cards or bowles, to hawk or hunt, to give money to a servant's or apprentice's box, or to send a couple of capons or any other present to a friend in the twelve days; to use a ring in the solemnization of marriage; to cover a hearse with a white sheet, and a thousand such-like foppish, superstitious conceits, which to reckon up would be long and needless.

QUERY XIII.

Whether this Feast had not its Rise and Growth from Christians Conformity to the mad Feasts Saturnalia, (kept in December, to Saturn the Father of Gods) in which there was a Sheaf offered to Ceres, Goddess of Corn? A Hymn in her praise called ὑλος or ἴυλος? And whether those Christians by Name, to cloak it, did not afterwards call it Yule[6] *and Christmas, as though it were for Christ's Honor? And whether it be not*

[1] For the Parlia. did nominate the divines of the Assembly. [2] There are above 10000 parish-churches in this commonwealth. [3] Edward's Antapologia, pag. 83. [4] See our sixth Section. [5] Alias the Minister and his Eldership. [6] It seems probable thus the Greek ὑλος is the same with the Gothic *Jol.* All nations celebrated the new-year, or the return of the sun from the winter solstice. The word Yule is still more commonly used among the Scottish peasantry than Christmas, and they celebrate the day with a variety of superstitious observances; some of them perhaps derived from the times of heathenism. See Dr Jamieson's Dictionary of the Scottish Language, voce *Yule.*

yet by some (more antient than truly or knowingly religious) called Yule, and the mad Plays or Sports (wherewith 'tis celebrated, like those Saturnalia) Yule-games? And whether from the Offering of that Sheaf to Ceres, from that Song in her praise, from those Gifts the Heathens gave their Friends in the Calends of January, ominis gratia, *did not arise or spring our Blazes, Christmas Kariles, and New-years Gifts?*

ANSWER.

This query containeth a pack of gross errors and vain imaginations, taken out of a new phantastical almanack;[1] the truth whereof our querist should have done well to have examined before he had swallowed it. As for our feast of the nativity, it had its rise from the practice of the pure, antient, and apostolick church, and its growth from Christians conformity to the said practice; which we have fully and at large proved in our fifth section. Those feasts to Saturn, which began on the 17th of December, and lasted three days,[2] concern not us; unless our opponents will say, that Christians may not set apart to God's service in that month that heathens had feasts; and if so, we must bid adieu to all public services of God. The story of offering a sheaf to Ceres, and a hymn in her praise at the feast of Saturn, is down-right false; for that offering and hymn to Ceres was at her own feast, which was in April:[3] and by consequence those derivations of Yule from ὠλαξ, and Kariles from Ceres, are ridiculous; and savour of as much wit as that of Tarleton to the school-boys of Westminster, when he told them that napkin came from Neptune, and trencher from his trident.[4] But no marvel these men should be so ignorant from whence the words come, when they know not how to spell them; for in true spelling it is not Yule, but Ule; not Kariles, but Carolles: and that our opponents may have the just original of these words, they must understand that the French call Christmas, Nouël, from the Latin word *Novus*, which signifies new, because the new-year begins at Christmas.[5] From Nouël, the people of Normandy, who speak a corrupt kind of French, have their word Nuel, and from Nuel, together with the Norman conquest, the English had Nule or Ule; both which words are indeed used at this day in some of the northern parts of this land. The other word Caroll, comes from *cantare*, which signifies to sing, and *rola*, an interjection expressing joy; for heretofore, in the burden of delightful songs, and when men were jocund, they were wont to sing *rola, rola*; as sometimes we do *heyda, heyda*, or *derry, derry*. Now, where lies the impiety of those words? Where lies their heathenism? But we find this is no new trick; we have examples enough (and too many some will say, when they must give an account) of slandering God's people and services in this kind. Plutarch tells us, that the antient Jews (with whom no doubt was God's true religion) did sacrifice to Ceres and Bacchus, and that from Sabasios, one of the names of Bacchus, they called their feasts Sabbaths.[6] Josephus tell us of a figment no less monstrous, that when the Jews came out of Egypt, at the end of every six days journey they were troubled with ulcers and sores in their groins, and for that cause rested the seventh day; and being settled and sound in the land of Judea, they called that day the Sabbath, from the Egyptian word *Sabbatosis*, which signified a disease in the groin.[7] And certainly one egg is not more like another than these are to the conceits of our opponents. As to their four superstitious scruples propounded in the close of this query, we answer to the

[1] The almanack is entitled a Scripture Almanack. [2] Vid. Giraldi Calendarium ad finem lib. Fast. [3] Ante tamen, quam summa dies spectacula sistat; Ensifer Orion æquore mersus erit. Proxima victricem cum Romam inspexerit Eous——Circus erit pompa celeber——hinc Cereris ludi. Ovid. Fastorum, l. 4. [4] The Treasure of Wit, pag. 35. [5] Vid. David. Chytræi Disposit. Epist. sub initio. [6] Plutarch in symposiacis. [7] Joseph. contra Ap. lib. 2.

first; concerning Ule-games, or Christmas sports, that the body is God's as well as the spirit;[1] and therefore why should not God be glorified by shewing forth the strength, quickness, and agility of our body, as well as by declaring the endowments of our spirit? Provided always the said exercises be according to christian modesty and in due seasons. To the second, concerning Blazes, we answer, that a great fire, little fire, no fire, are equally material to the celebration of Christmas; and yet, why may not blazes be then allow'd in our chimneys as well as bonfires in our streets on the fifth of November? To the third, concerning Christmas Carolls, we answer, that it was an antient custom among the Christians in their feasts, to bring every one into the midst, and incite him to sing unto God as well as he could, either out of the holy scriptures, or of his own wit and invention:[2] And why was this course of singing more lawful in those days than now? To the fourth, concerning new-years gifts, we answer, that we have scripture example for sending gifts or portions one to another on days of feasting;[3] and this use then was (say the assembly of learned divines) for the maintenance of mutual friendship.[4] How come such gifts to be since unlawful?

QUERY XIV.

Whether Conformity to and Retention of Heathenish Customs be commendable in Christians, suitable or agreeable with Gospel-principles, though under pretext of Christ's Honour and Worship?

Answer.

It is a most wicked slander, that we solemnize the day of Christ's nativity under a pretext only and shew of Christ's honour and worship; for with all sincerity and singleness of heart we dedicate both the day and ourselves on that day to the publick worshipping of God, the honouring of Christ, and to a thankful contemplation of those infinite and unestimable benefits, which accrue unto us by Christ's marvellous birth of a virgin; nor is this from any heathenish customs, but from the evident examples of God's church throughout all ages ever since Christianity hath been professed.[5] And here we shall give our opponents a lesson which would be well learned and remembred, that it does not straitway follow because heathens do it the thing done is heathenish, and not suitable with gospel-principles: for the principles of the gospel do confirm, not destroy, the principles of nature, and therefore heathens by the light of natural reason have done and do many excellent things and commendable in Christians.[6] We find upon record, the temperance, chastity, prudence, and other virtues of heathens, and yet no man can say that temperance, chastity, prudence, are heathenish and not suitable to gospel-principles. We read that heathens do marry, bury, build churches, and yet no man can say that marriage, burial of our dead, building of churches, are heathenish and not suitable to gospel principles. Yea, manifest it is, and some of the new Sabbatarians confess,[7] that the heathens observed the seventh day for a holy-day and festival;[8] and yet they will not say that the observation of the seventh day is heathenish, and not suitable to gospel-principles.

[1] 1 Cor. 6. 20. [2] Ut quisque de Scripturis sanctis, vel de proprio potest, provocatur in medium DEO canere. Tertul. lib. adversus gentes, cap. 39. [3] Esther 9. 19, 22. [4] See their Annotat. on Esther 9. 22. [5] See our fifth section. [6] Rom. 2. 14, 15. [7] Rich. Byfield's Doctr. of the Sab. page 81. 12. [8] Joseph. contra Ap. l. 1. & Philo Judæus, l. 2. de vita Mosis.

QUERY XV.

Whether you are not bound to prove your Practice for the Conviction and Satisfaction fo your Brethren, whose Duty it is to walk with you in Things agreeable to the Mind of Christ? And in case you cannot, whether you ought not to acknowledge your Error, lay down your Practice (as others have done theirs) no longer befooling and misleading the people?

Answer.

Indeed, putting the case as our querist doth, that we cannot prove the lawfulness of our practice, 'tis granted we ought to acknowledge our error, and lay down our practice; but in case we can prove, as it is manifest we have proved, that our practice hath the approbation of God's word, the example of Christians in the primitive and purest times, the witness of the antient fathers, the consent of all the reformed churches, (with which, if any thing there be that ever can or will convince and satisfy, men ought to rest satisfied,) then, out of our querist's own mouth do we infer, that it is the duty of him and all other opponents to walk with us in these things so clearly agreeable to the mind of Christ. And if yet, the good which we have set before them will prevail, let our opponents take into their saddest and most serious thoughts, the manifold evil which, by their non-conformity to our practice, ariseth both to themselves and the churches of God. First, it abets and gives countenance to blasphemers, and those so horrid and execrable, that the bare rehearsal of their frequent reproaches against our christian solemnities, would be unto modest ears offensive: You have a taste hereof in our last section. Secondly, it is a dangerous fore-runner of men's apostacy from Christ, for the said non-conformity is a great and manifest schism in the catholick church, and schism (as we know by heavy experience) produceth heresy, [1] and heresy (without God's extraordinary preventing grace) endeth in apostacy. Thirdly, it condemns and casteth dirt on the face of the pure, antient, apostolick churches. Fourthly, it is directly against the solemn league and covenant, which obligeth every one in his place and calling to act according to the word of God and the example of the best of the reformed churches. [2] Fifthly, it is an argument of superstition, for to account days holy or unholy in themselves is equally superstitious. Sixthly, it teaches disobedience unto, at least a neglect of, the magistrates power in matters ecclesiastical. Seventhly, it is a contempt of universal tradition, which hath ever been held a sure mark of truth, [3] and one of the best testimonies that the scriptures be the word of God: [4] yea, we desire our opponents to consider that upon no other ground than this of universal tradition do Christians believe that Matthew, Luke, and John wrote those gospels, in which is declared the birth of Christ; [5] and if the universal tradition of God's church be a necessary and certain foundation whereon to build our belief of the said gospels, from which we have the relation of Christ's birth, it must likewise be yielded, that universal tradition is as certain a foundation whereon to build our belief that Christ was born on the 25th day of December, and that that day is to be yearly celebrated by all Christians in memory thereof: For both these are no less assured unto us by universal tradition [6] than the former. Lastly, it is an inlet to all confusion and disorder in the churches of Christ; for, if nothing must be admitted but what hath special scripture-warrant,

[1] Hæretici plerumque fiunt Schismatici, et vicissim Schismatici plurimum fiunt Hæretici. Polan. Syntag. Theol. lib. 7. c. 22. [2] Article 1. [3] Vincent. Lerinens. contra Hæres. cap. 3. Bucan. loc. com. 4. q. 13. Hooker, Eccl. Pol. lib. 4. [4] Matth. 1. 18. Luke 2. 7. John 1. 14. [6] See our fifth and sixth section.

either in express terms or by sound consequence, [1] then it follows undeniably, that the Lord's day and all set days of God's worship, set fast-days, set lectures, daily prayers with our families, singing one psalm altogether, [2] erecting churches, parochial congregations, publick catechizing of youth, asking banes, and the minister solemnizing of matrimony, exhortations at burials, must not be admitted; for none of these, nor many things more now in practice amongst us, have any special scripture-warrant at all.

QUERY XVI.

Whether in case you return no Answer to these Queries, I have not Ground sufficient to conclude you utterly unable to give any rational Account of your Practice, now put upon it?

Answer.

Sir, you have an account of our practice; and how rational it is, we appeal to your own conscience and the judgment of the Christian world. Now for conclusion, take here the words of a most eminent divine, whose learning and piety hath placed him beyond exception: There is, saith he, [3] no day so properly Christ's as his birth-day; which may appear, if we set it in comparison with other days of most memorable note, as the day of his passion, resurrection, and ascension: For the day of his passion, that was not so properly his, because two thieves suffered with him at the same time, in the same place, after the same manner: [4] Nor the day of his resurrection; for as he rose from the dead, so did others the same day, and went into the holy city: [5] Nor the day of his ascension, for Enoch and Elias had their ascension too, and that long before his: [6] But his birth-day was His without a fellow; none ever so borne, none ever borne such a one; and therefore (as no festivity is besides it) it is attended, as Christ himself, with an apostolical retinue of holy-days.

Halelu-jah.

[1] See Query 3. & 4. [2] Bucan loc. com. 43. n. 10. [3] B. Andrews in his Serm. upon John 8. v. 56. [4] Luke 23, 32, 33. [5] Matth 27. 52, 53. [6] Gen. 5. 24. 2 Kings 2. 11.

James Nailor's Recantation, penned and directed by himself to all the People of the Lord, gathered and scattered; and may most fitly serve as an Antidote against the infectious Poison of damnable Heresies, although couched under the most specious Veils of pretended Sanctity.

Printed in the Year, 1659.

This is the recantation of that celebrated heretic, who, himself a frantic blasphemer, was nevertheless one of the principal founders of the pacific, moral, and orderly sect of Quakers. Mr Hume has given a lively account of the dreadful delusions which preceded this man's commitment.

"James Naylor was a quaker, noted for blasphemy, or rather madness, in the time of the protectorship. He fancied that he himself was transformed into Christ, and was become the real saviour of the world; and, in consequence of this frenzy, he endeavoured to imitate many actions of the Messiah related in the evangelists. As he bore a resemblance to the common pictures of Christ, he allowed his beard to grow in the like form: He raised a person from the dead: He was ministered unto by women: He entered Bristol on a horse, I suppose from the difficulty in that place of finding an ass: His disciples spread their garments before him, and cried 'Hosannah to the highest; Holy, holy is the Lord God of Sabbaoth.' When carried to the magistrate, he would give no other answer to all questions, than 'Thou hast said it.' What is remarkable, the parliament thought that the matter deserved their attention. Near ten days they spent in enquiries and debates about him. They condemned him to be pilloried, whipped, burnt in the face, and to have his tongue bored through with a red-hot iron. All these severities he bore with the usual patience. So far his delusions supported him: But the sequel spoiled all. He was sent to Bridewell, confined to hard labour, fed on bread and water, and debarred from all his disciples male and female. His illusion dissipated, and after some time he was contented to come out an ordinary man, and return to his usual occupations."—HUME'S *History of England, Lond.* 1797-8. VII. 336.

James Nailor had been long a soldier under the command of General Lambert; nor does it appear that the sect he belonged to had as yet assumed their principles of non-resistance. It would seem, from the mystic cast of his recantation, that his cure was neither radical nor lasting. Accordingly we find him again in durance in 1661, when he published "Milk for Babes," written during the confinement of his outward man (as he expresses it) in prison.

To all the People of the Lord, gathered and scattered.

IN the fear of God, and love to his truth and people, do I declare, in the spirit of meekness, what hath long oppressed my soul, concerning those unclean spirits gone out from the unity of the truth and light, by which we have been called and gathered into one Christ Jesus, the head over all his blessed for ever; whose name hath been greatly dishonoured by many wild actings, and his innocent spirit grieved, and many simple souls deceived, many oppressed, and many offended against the truth;

for which work my soul hath been much troubled, who to this day raven about from place to place amongst the people of God, seeking to enter where they can, so to strengthen themselves into parties, to trouble such as they cannot enter, seeking to spoil the pleasant pasture of the lambs, that they should not feed in peace; and, for that end, haunt after the meetings of the people of God. All which practices and pretences I deny in my soul, and the spirit that acts therein.

And the more it lies upon me, from the Lord to warn the simple innocent ones of his thereof openly, in that through me these spirits have got much head and entrance into the minds of some who were simple towards God's truth: And this the envious one hath done, in the night of my trial, and hour of darkness and temptation, taking advantage of my sufferings, in the day when my judgment was taken away, and led captive under the power of darkness, which all along hath sought my life, had not the father held, and with his hand upon me, stayed me in those great temptations, to whom alone I give the glory of my deliverance from that great destruction, as his promise was to me before I came into that trial, who also hath brought me up again, and hath given me to see those evil spirits, and that the work of the murderer and devourer is therein, against the life of God in his temple; which, though they seek entrance under pretence of humility, promising some great things, and more holiness, in that way to steal into simple minds, yet being got in, exalts himself above the seed of God, and tramples the meek spirit under foot, and so darkens the vessels; and being exalted in the openings of the imaginations, leads the creature as God above that of God, and so against that of God, he wars in others, where God is above.

And this mystery of deep iniquity hath the Lord God in the spirit of the Lamb revealed unto me, whose powerful working I have felt, working in me above the pure measure and unspotted life of God: And also in the simplicity of Jesus Christ, I had given up my body all along a free offering to the will of God in life or death, for the seed's sake yet ungathered in the world, (as God knoweth I lie not,) yet could I often feel that exalted one above, secretly tempting to envy against the people of God already gathered, pretending another thing to come some other way. But this was ever judged the life of God also. I was often buffeted therewith, sometimes so strongly as to force words from me above the meek and lowly principle,[1] all which words were soon judged with the sufferer which lay under, and with his life be they condemned for ever, and this lieth upon me to declare openly, which God hath revealed unto me, for the sake of the simple ones, who may be deceived therewith, but would not, did they know his subtility.

And by this you shall all perceive that spirit, whatever it pretends, it will secretly withdraw your intire love from the flock of God, already gathered, and cool your affections and zeal towards their present meetings, and if you judge it not there, it will grow on with an evil eye, to spy out for their failings, and to delight to hear of them with an hidden joy, whispering them to others, and adding thereunto, with a desire to see them broken, and their nakedness laid open, if any thing be amiss.

And thus it hath wrought in a mystery of wickedness in some unjudged, until it be seated in the throne of open enmity and strife against the lambs of light, preferring the society of the prophane before them, and taking part therewith against them, joining to any who seek to scatter them.

And whatever pretence this spirit covers itself with, this I declare against it, having been kept by the good hand of God, to see it revealed in its ground and end, that it is

1. This modest intimation of his having been misled into vain words, is the only apology which this miserable man seems to have thought necessary to allow for his dreadful blasphemy.

the old spirit of the Ranters, [1] which now, in a new way, make head against the light of Christ, and life of the cross, which is the only thing which stands in its way, by condemning its filthiness in every conscience.

And so they, in whom this is entred, being exalted above the living witness in themselves, would devour it in others; and this in the presence and fear of God I declare, without the least prejudice against any man or woman, but in obedience to God, and for his seed's sake, lest any more of the simple should be deceiv'd, and that such as are deceived already may recover themselves out of satan's snares, having no selfish end therein, God knows.

And long time hath my soul travelled, ere I could obtain power herein (so strongly hath he that letteth withstood my way,) and therefore in the bowels of tender love I warn you all to take heed however you come under that spirit, under what pretence so ever, but let the fear of God, and sound judgment in the spirit of meekness, preserve you all above it; for wheresoever it enters by consent, it is hard to be got out again, and if it be, it is not without much sorrow: And this I have found in the depth, which, for your sakes, I declare in plainness and in truth, as I have learned of the Lo d, labouring with him without ceasing, that the rest of the people of God every where may be saved from this devourer, who daily goeth about to deceive; and whosoever he takes he casteth into the earth and into the sea; for wickedness is with him wheresoever he goes.

Even the Lord God Almighty arm you all against his wiles, being warned thereof in his love, and the eternal power of holiness preserve you all clean to himself, who are dearer to me than ever, and that in no other thing but that innocent principle in which you were kept free from all the pollutions of the world, and fleshly liberty, and do stand witnesses for God against it before all men; and in no other thing have I fellowship with any, which is that I seek to set up above all.

[1] "The Ranter is an unclean beast, much of the make with our quaker, of the same puddle, and may keep pace with him; their infidelity, villainies, and debauchments, are the same; only the Ranter is more open and lesse sowre, professes what he is, and as he has neither religion nor honesty, so he pretends to none. If he was a Christian he has renounced his faith, nor can any desperate runagado to the Mahometans or Jews more blasphemously abuse or prophane things sacred.

"He denies that there are either God or devil, heaven or hell.

"Moses is a conjurer with him, and Christ a deceiver of the people; at the best he makes the doctrine and practice of Jesus Christ and his apostles but dead works, dying and ended with them.

"That preaching and praying cease; that preaching and lying are all one.

"God (says one of them) has put an end to all ministers and ministrations; God teaches his people now by the inward unction.

"Baptism is with them only a form; Saint Johns ministry is a legall washing.

"The scriptures are of no esteem with them; they are sleighted and cast off for fables, which they cite not but in jest, and to shew their gifted, sets of blasphemies, their letter and discourses being nothing else but a confused, senselesse, prophane scripture medley, made up of impious flatteries, of impious kindnesse, and atheistical curses, oaths, and ranting imprecations, in the same breath or line: For example: One of their letters runs in this stile: 'My own heart blood, from whom I daily receive life and being, to whom is ascribed all honour, &c. thou art my garment of needle-work, my garment of salvation, eternal plagues consume ye all, rot, sink, and damne your bodies and souls into devouring fire, where none but those who walk uprightly can enter. The Lord grant that we may know the worth of hell, that we may scorn Heaven.'

"It is a maxim with them, that there is nothing sin but what a man thinks to be so.

"In the quakers strain, that they are above ordinances; hence it is that nothing is to be forbidden them, nothing can be unlawfull: nothing is more pretious and dear to them than community of men and women, which they call injoying the fellow creature, a duty one creature owes to another, and which (say they) is the true Christian liberty.

"They are the merriest of all devils, for extempore lascivious songs, not extempore prayer, but as absurd and nonsensicall, for healths, musick, downright baudry, and dancing; the two last of which commonly proceed and follow the conjunction of the fellow creatures, which is not done in corners.

"I will conclude with this, they are contemners of authority, and as the anabaptists (of which kind these and the quakers are) deny all obedience to magistrates."—*Heresiography by Ephraim Pagitt, Lond.* 1661, *p.* 259.

And this I was moved to give forth to go every where a witness against that unclean spirit wherever it goes, feeling its work is to run to and fro to deceive, and that all may be warned by what I have learned in sufferings; and that they that will not may be left without excuse.

JAMES NAILOR.

TRACTS

DURING

THE COMMONWEALTH.

SECOND CLASS.

CIVIL TRACTS.

THE COMMONWEALTH.

SECOND CLASS.

CIVIL TRACTS.

Die Mercurii, 14 *Martii*, 1648.

London, printed by R. Cotes, 1649.

These votes contain the measures which the parliament, now completely victorious, chose to adopt towards their vanquished opponents. They are perhaps sufficiently severe, yet much less so than would have attended the conclusion of such a long and bloody civil war in any other country than England.

Resolved by the commons assembled in parliament,

THAT Sir John Stewill, Kt.,[1] be proceeded against for life in the upper bench.

Resolved, &c. That David Jenkin be proceeded against for a tryal for life, and that the judges in that circuit in Wales be required to proceed to an indictment against him, in the proper county in the next assizes.

Resolved, &c. That Charles Stuart, eldest son to the late king, James Stuart, second son of the late king; the Duke of Buckingham; John, Earl of Bristol; William, Earl of Newcastle; Sir William Widdrington; George, Lord Digby; Sir Philip Musgrave; Sir Marmaduke Langdale; Sir Richard Greenvile; Sir Francis Doddington; Sir John Culpeper; Sir John Byron; the Earl of Worcester; and Sir John Winter; and all such persons as have been acting in the plotting, designing, or assisting the rebels in Ireland, shall be proscribed and banished as enemies and traytors to the commonwealth, and shall die without mercy wherever they shall be found within the limits of this nation, and their estates shall be confiscate, and forthwith imployed for the use of the commonwealth.

[1] See the next tract.

Resolved, &c. That Sir John Winter shall have convenient time to depart into any foreign parts.

Die Sabbathi, 17 *Martii,* 1648.

Resolved, &c. That Colonel Matthew Boynton, late governor of Scarborough, and Sir John Morley, shall be proscribed and banished as enemies and traytors to the commonwealth, &c.

Resolved, &c. That all other delinquents, members of this commonwealth, (not comprehended in the former exceptions) shall be admitted to compound.

Resolved, &c. That the time for the coming in of all delinquents within the land, whose habitations are within eighty miles of London, and for the filing of their petitions and particulars, shall be before the 20th day of April next; and for all other residing at a further distance, before the 3d day of May.

Resolved, &c. That the times for perfecting the compositions of such delinquents, that is to say, for submitting to their fines and paying one moiety, and securing the remainder at three months day, shall be six weeks from the respective days before limited for filing their petitions and particulars.

Resolved, &c. That the time for the coming in of delinquents not excepted, and now beyond seas and out of the land, shall be the first of June next, for the filing of their petitions and particulars, and six weeks after for the perfecting of their compositions, as is before exprest.

Resolved, &c. That the rents and profits of all sequestred estates, (except the persons before excepted) growing due at our Lady-day next, shall be stayed and detained in the tenants hands, until the first day of June next.

Resolved, &c. That the estates of all such persons who shall neglect to render themselves, and submit to their compositions at the respective times before limited, shall be confiscated and converted to the use of the commonwealth, and no further allowance shall be thenceforth made out of the same to the wife or children of any such delinquent.

Resolved, &c. That delinquents who were formerly excepted from pardon by their particular names or titles, who have not been formerly, but now are admitted to composition, (except such as have already compounded) shall pay one full moiety of the true value of their estates.

Die Mercurii, 21 *Martii,* 1648.

Resolved, &c. That all such delinquents as have been members of either house of parliament, and all judges, officers towards the law, common or civil, and all serjeants, counsellors and attornies, doctors, advocates, proctors of the law, common or civil, and all bishops, clergymen, masters and fellows of any college or hall, in either of the universities or elsewhere, and all masters of schools or hospitals, and also Humphry Bennet, Esq., Sir Edward Foord, Sir George Vaughan, and all other the persons named in the fourth qualification of the propositions sent to Hampton-Court, to pay one third, except such of the said persons as were included in any articles whereof they have the benefit, shall pay one full third part of the true value of their estates.

Resolved, &c. That all other persons delinquents, (not included in any of the former qualifications) shall pay one full sixth part of the true value of their estates.

Resolved, &c. That if any person not yet sequestred, who conceives or doubts himself to be liable to sequestration for any thing said or done in relation to the war, and

was not publickly and personally engaged in the latter war, shall come in and discover his case to the commissioners for compositions, before the first day of July, 1649: (being not before such discovery judicially impeached and discovered for the same by any other,) then such person (if his case so discovered shall be adjudged liable to sequestration) shall be admitted to compound and discharged of his delinquency, paying one year's value for land, and a twentieth part for his personal estate. But in case any such delinquent be first judicially impeached and discovered by another, or shall not be discovered by himself before the said first day of July, 1649, then he shall not be admitted to compound at any lower rate than is appointed for the qualification under which he falls.

Resolved, &c. That no promissory oath shall be imposed upon compounders as a condition without which they may compound.

Resolved, &c. That all persons who have formerly compounded, and have concealed or undervalued any part of their estates, and shall themselves discover it before the first day of June next, shall be admitted to compound for the same, at the same rate for which they did compound for the other part of their estates. But if any such concealment or undervalue shall be hereafter discovered by any other person before the delinquent himself discover the same, and shall not be compounded for (within the times herein before limited) according to the rates heretofore imposed by order of parliament upon such discoveries, that then such estate which is concealed, or so much as appears to be above the value compounded for, shall be forfeit to the commonwealth.

Resolved, &c. That all such persons as have been engaged in the latter war, and not in any former engagement against the parliament, shall pay one sixth part of the true value of their estates, (except such as are included in any particular qualification beforementioned, who are to pay according to the several rates in those qualifications.)

Resolved, &c. That all such persons as have been engaged in the latter war against the parliament, and have formerly compounded, and have not paid their whole fines, shall make good the remainder of their fines according to their agreement.

Resolved, &c. That all such persons as have been engaged in the latter war against the parliament, and have formerly compounded, shall pay one sixth part of their estates over and above their former fines.

Resolved, &c. That all such delinquents as shall perfect their compositions by the respective days herein before limited, whose sequestrations have continued upon their estates to this day, shall be exempted from paying any fifth and twentieth part.

Die Mercurii, 28 Martii, 1649.

Ordered by the Commons assembled in Parliament, That the resolutions of the house touching delinquents and their compositions be forthwith printed and published.

HEN. SCHOBELL, Cler. Parliament.

Some account of the eminent loyalist, who is the subject of the following article, is given in the note. His petition was offered to the motley assembly called Barebone's Parliament; and it is remarkable that their neglecting it was assigned by Cromwell's party as one mark of their negligence and incapacity for managing public business.

To the Right Honourable the Commons of England assembled in Parliament,

The humble Petition of Sir John Stawell, [1]

Sheweth,

THAT, by a certificate made by the high court of justice upon trial of his life, which was directed to and read in parliament the 10th of June, 1651, as also by a judgment past on the 15th of August, 1653, for the restitution of his estate, it appears that your petitioner hath good right to the articles of Exeter, dated the 8th of April, 1646, and that he hath performed all that was on his part by the said articles required, notwithstanding which said articles (importing a contract and bargain made, not to be voided, as he humbly conceives, in common right and justice, but by his own consent,) your petitioner hath been hitherto debarred the benefit of them, his person imprisoned ever since the year 1646, nothing allowed unto him out of his own, for the space of many years, to afford him his daily bread; himself, during that time, several times tried for his life; his good name, by scandalous letters, and impeachments of felony and high treason, defamed; his estate totally sold, divers judgments recovered against him for things relating to the unhappy differences; his family ruined, destroy-

[1] "Sir John Stowel, of Stowel, in Somersetshire, a knightly family for above 200 years, well known for serving their country in all places of justice in times of peace, and better for serving the king in places of command in time of war. All satisfaction did this knight endeavour to give the people in a moderate way, in their liberties and religion, while any hopes of peace. All pains and care imaginable did he take to reduce them (according to the commission of array, wherein he was an eminent member.) When they were bent upon war, 6000 men and 30000 pounds did Sir Edward Stowel and Coll. G. Stowel raise to set up his majesty; and 8000 pounds a-year, during the troubles, did they bring in to support him; till Sir John having, with Sir Francis Courtney, Sir John Hales, and Sir Hugh Windham, whose loyalty cost them 45000 pounds and upwards, bravely kept Bridgewater, was brought prisoner (as I take it) from Worcester to Westminster, where, being convened for his great estate rather than his great fault, he refused to kneel and own their authority, demanded the benefit of the articles whereon he rendered himself prisoner, and demanded their charge against him. Being answered with fourteen years imprisonment, without any legal trial had, (notwithstanding that his cause was heard in every convention that was during the usurpation,) and he himself set five times before an high court of justice; nor any judgment given, till his majesty returning, May 29, 1660, was met by him at Charing-cross, with a stand of loyal gentlemen and old officers of the king's army, the stateliest sight seen that glorious day. He died Feb. 21, 1666½, *fœlicitas in ipsa fœlicitate mori*, SEN. being supported under his great age and greater sufferings by a naturally great spirit made greater by solid and unquestionable principles, by a cheerful temper, by noble studies, that both comforted and diverted, sublimating natural bodies, for he was a great chymist, as he did his affections, by a well-grounded patience; for he would say he learned patience himself by looking on the inconvenience of impatience and anger in others."—LLOYD'S *Memoires, Lond.* 1668, *fol. p.* 653.

ed, and brought to the extremest point of misery; and the public faith, honour, and justice, of the late parliament, army, and nation in general, highly scandalized, contrary to their honourable, just, and equitable intentions, declared by several acts, orders, and ordinances, made for the relief of such as claim the benefit of articles, and contrary to the order and judgment of the Court of Articles, appointed by them to hear and determine causes of that nature; all which miseries and pressures were brought upon him originally by means of Mr John Ash (chairman of the committee of Goldsmiths-hall, when your petitioner first appeared to make tender of his composition,) who coveting the farm at Aubery (part of your petitioner's estate,) and having conferred with Sir Edward Baynton touching the same, did in the first place, upon untrue suggestions made to the parliament, procure the benefit of your petitioner's composition before it was set: And having gotten by this means a kind of interest in his estate, did unjustly calumniate your petitioner before his admittance to the committee, who were strangers unto him; and when he was admitted, the said Mr Ash told him, that the petition delivered by him was a remonstrance, not a petition, wherein he had rejected the parliament's mercy offered him in his articles, and had put a contempt upon the authority of parliament; and did at the same time obtrude oaths upon him, contrary to the said articles; upon refusal of which, and the judgment which Mr Ash had passed upon his petition, his composition was denied unto him; and the said Mr Ash, together with Mr John Leech (then clerk to the said committee,) did in a few days after, by the entry of a false record, contrive a way how your petitioner might forfeit both life and estate together, in case he should refuse to part with the said estate, when the sale thereof should be proposed unto him; and because this could not be well effected but by authority of the then parliament, to bring him to a tryal for his life, a report was made to the house of commons by M. John Stephens (who was not present when your petitioner first appeared) to the same sense that the words were formerly delivered by Mr Ash, viz. That your petitioner had slighted and contemned the authority of the then parliament, and forfeited their mercy, contained in the articles of Exeter; together with this addition in the close thereof, That if they did not make Sir John Stawell a traytor, Sir John Stawell had made them traytors, strangely interpreting the petition preferred by him to obtain the benefit of his articles, to be a forfeiture of them, and a contempt of that authority which gave a confirmation unto them: upon which report the house was pleased, on the 18th of August, 1646, to command your petitioner to be brought from Ely house (where he was kept a prisoner by the mittimus of Mr Ash and some others,) to Westminster, where Mr Ash (coming several times under pretence of kindness to visit him, whilst he was in the custody of his keepers) at last proposed unto him the sale of the said farm, offering for it not half of that it cost your petitioner; and upon his refusal thereof, your petitioner was forthwith brought to the bar of the house of commons, and from thence was committed to Newgate, and ordered to be tried for his life as a traytor, and was (by indictment removed by *certiorari* out of the county of Somerset) several mornings tried for his life at the then king's bench bar accordingly.

That the parliament being thus incensed against your petitioner, the design to destroy him was droven on (as he conceives upon the same instigation) by the committee appointed for drawing up the act touching delinquents, who, on the 13th of March, 1648, did resolve, That your petitioner should be presented to the house as a person formerly excepted for life, and then in custody, and that it should be referred to the house, whether to proceed against him by way of trial for life, perpetual imprisonment, or banishment and confiscation; whereupon it was resolved by the house the day following, being the 14th of March (upon a report made by Sir Arthur Hazelrig, who was one of the said committee, and present when the resolve was made,) that he

should be proceeded against for life in the upper bench: And the commissioners of Haberdashers-hall (of whom Sir Arthur Hazelrig was likewise one, and present,) on the 18th of March, 1649, did make a resolve, That your petitioner should be one of those named to the house, whose estate was thought fit to be sold; and your petitioner's estate hath been sold accordingly.

That on the 9th of July, 1650, a special act was published for the trial of your petitioner and some others at the high court of justice (a court not formerly known in England till introduced by Mr Lisle, Mr Scot, Mr Millington, Mr Garland, Mr Miles Corbet, Mr Saye, and some others;) and by the said act it was declared, as a ground for the court proceedings, That your petitioner was not admitted to composition; which averment, as it was much insisted on by Mr Prideaux (then attorney general) to the extreme hazard of your petitioner's life; so thereby it clearly appears that the parliament (giving credit to the said reports, made by their own members, and supposing that in truth your petitioner had either forfeited the benefit of his articles, or been an excepted person for life,) did pursue their resolves formerly made on the 14th of March, 1648; and at the time of your petitioner's tryal upon the said act, the said Mr Ash, Mr Leech, and some others, endeavoured by false oaths, urging the said false record against him; concealment of the petition he first preferred to be admitted to his composition; and by other indirect practices (according to the design aforesaid) to deprive him of his life, and to render (as much as in them lay) the parliament itself (which is the very fountain of justice) instrumental to the destruction of the innocent.

And your petitioner further sheweth, That by the judgment of the said Court of Articles, he was to be admitted to compound for his whole estate, both real and personal, according to the tenor of the said articles, notwithstanding any the settlements, sales, or contracts thereof made, at such rates and in such manner as others comprized within the said articles have done; and that the commissioners for compounding with delinquents were also thereby enabled, authorized, and required to permit your petitioner to compound for his whole estate as aforesaid: And in respect of the great losses and extreme damages which your petitioner had sustained by the sequestration and detention of his estate, and the profits received out of it, for above seven years last past (before the date of the said decree,) and by felling of his woods and timber, and otherwise for want of being admitted to a timely composition, the said court did order and direct the said commissioners to cause an exact account to be made of the rents, issues, and profits received for or out of his estate, since he first submitted to composition, recommending to their considerations the proofs before taken in the said cause, copies whereof, attested by the register, were for that purpose to be presented unto them: And if the said commissioners should find the same to amount unto, or exceed the fine or composition which your petitioner ought to have paid according to the rate prescribed and allowed by the said articles, then the same to be allowed and accepted in lieu and full satisfaction of the said fine so imposed upon him, or to be satisfied by your petitioner, according to his said articles, otherwise the defect (if any were) to be supplied by him; and that if any surplusage or overplus remained, the said commissioners were ordered and desired to certify the same to the said court; and upon such computation and satisfaction made as aforesaid, the said commissioners were thereby further directed and authorized to give their order for such acceptance of his fine and composition, and to give your petitioner a discharge accordingly; and they were also thereby desired to give him all fitting expedition in the premisses: And it was also further adjudged and declared by the said court, that, after the making of the said composition, your petitioner should have the liberty and indemnity of his person, free from all further restraints or imprisonments; and that all bail or other security entred into by him, or any other with him, touching his true imprisonment, should be deli-

vered up to him and vacated; and also that your petitioner, from and after such composition, should have the possession of his estate, freed and discharged from all sequestrations and seizures whatsoever, and enjoy the same without any claim or demand of the said trustees, or the survivors of them, or their heirs: And further, that the trustees for sale of lands and estates forfeited, should, upon sight of the said order and award, stay and forbear all further proceedings in the sale or disposal of any the lands or estate of your petitioner remaining unsold (if any such were;) and if any part of the monies remained unpaid for any lands belonging to him, then contracted for and sold, that they should likewise forbear to demand or receive the same, or to make any further proceedings in the same, or to intermeddle further therewith, as by the decree itself more fully appears; notwithstanding which, some of the commissioners for sequestrations, and trustees for sale of lands, and other persons, have (in further prosecution of the said design, as he humbly conceives) refused the tender made of his composition for his whole estate, by virtue of the said judgment, thereby denying him that common justice they were intrusted to administer, defrauded the public revenue and treasure, and deprived him of one thousand pounds per ann. of his estate, unsold after the judgment of the Court of Articles was duly served upon them, and for which your petitioner had really compounded, and satisfied his fine, by colour of antedated contracts, orders, and other unjust pretences; all which your petitioner doubts not clearly to prove against the particular persons named, together with some others guilty of the said misdemeanors, if thereunto admitted.

Now, forasmuch as it appears that the proceedings against your petitioner for life, liberty, and estate, were all grounded upon the misrepresentations made as aforesaid unto the late parliament (who being of themselves very sensible of all injuries done unto articles) were pleased to declare by their act, dated the 18th of July, 1649, That they were concerned in honour and justice that the faith of their armies should be made good, and receive no violation; and that the certificates, orders, and awards, made by the commissioners in that act named, should be conclusive, binding, and observed by all courts of justice, commissioners, committees, and persons concerned, any law, order, or ordinance to the contrary notwithstanding.

And forasmuch as acts of parliament made for the sale and forfeiture of estates, contrary to articles of war (which by the law of nations ought inviolably to be kept,) have been by the wisdom and justice of former parliaments not only repealed and made void (as a case very far different from all other sales whatsoever,) but that the late parliament also were honourably pleased to provide (not knowing then the claims that were and might be made unto articles,) That the trustees, in the first act of sale named, should have, hold, and enjoy all and singular the premises, subject to such trusts and uses as by that act, or in, or by authority of parliament, should be thereafter further directed and appointed: And in pursuance of this power reserved to them and received from them, not only the commissioners of Worcester-house have granted divers reprizes for lands sold by the first act of sale (which comprehends your petitioner's estate,) but the trustees of Drury-house, and commissioners of Haberdashers-hall, have done the like, upon judgments given by the Court of Articles, authorizing the same.

Your Petitioner therefore most humbly prays,

1. That those memorable acts of justice which have been done by your noble ancestors in former times, as well as those by the late parliament of a later date, may be thought worthy of your consideration; and that, in pursuance of them, the names of John Stawell and Edward Stawell (your petitioner's two sons,) together with his own, may be blotted out of the said act of sale; and that all entries and records, that men-

tion him either a felon or traitor, may be so cancelled as to be had no more in remembrance.

II. That he may be restored by act of parliament to the possession of his estate, freed and discharged from all sequestrations, sales, seizures, grants, presentations, augmentations, incumbrances, or other dispositions whatsoever, made either of the whole or any part thereof, since the time his articles were first granted unto him; and that his estate may be excepted out of any general act which shall be passed for the confirmation of sales.

III. That he may have liberty and indemnity for his person; that his articles, together with the judgment given thereupon the 15th of August, 1653, may in all respects be made good unto him; and that, according to the same, a proportionable sum, agreeable with his fine due by his articles, may be deducted out of 25,000l. mentioned in, and found as damages by the said judgment, in lieu of the said fine for his composition; and that the aforesaid judgments recovered against him may be nulled and vacated.

IV. That himself, and such as he shall employ, may (for your clearer satisfaction touching the whole matter of his petition) have liberty to take a view, and copies of all papers, entries, and records, in Drury-House, Gurney-House, Haberdashers-Hall, or elsewhere, and of the treasurer's accounts touching the same; for that your petitioner believes a very inconsiderable sum will appear to have been given (in ready money) to the use of the public for his estate, if compared to 63,882l. 18s. 9d. wherewith the trustees of Drury-House have charged themselves upon sale thereof; and that his cause (being more than of a private concernment) may have the honour to be heard at your bar.

V. And lastly, Forasmuch as the aforesaid offences being in themselves heinous, are considered by the laws of this kingdom under a twofold respect; the one, as they relate unto the public; the other, as they concern the party grieved; and for that your petitioner having been noways negligent in the prosecution of his right and relief, hath notwithstanding had the profits of his estate so many years detained from him, that, according to the computation of years, and the exceeding great wastes that have been lately made by the inhabitants of Taunton, by plucking down his principal house, destroying his park, woods, and timber, and by some other persons on other parts of his estate, the damages, together with the mean profits thereof, will, upon a true account, amount to a greater sum than his estate is now worth, were it to be sold. Your petitioner therefore most humbly prays your honours, that (since his case is the only case that hath met with so many unavoidable evils, as have been formerly mentioned) you would be pleased, by your honourable judgment upon the whole matter, to afford unto him answerable reparations; and secure the kingdom for the future, from such trustees and ministers of justice, as have not known (in your petitioners case) how to discharge their oaths and duties: Or, if your more weighty affairs shall not admit a particular examination of the aforesaid offences, whereby his damages may be better ascertained, he humbly prays it may be provided, that no act of oblivion, general pardon, or other thing, may extend to the freeing of any person or persons guilty of the breach of the said articles: But that the persons aforesaid, and (in case any of them be dead) their heirs, executors, and administrators, may be liable to such damages, to be recovered at the common-law, as may fully recompence your petitioner for his very great losses and sufferings, occasioned by the breach of them, any act, law, ordinance, or other thing to the contrary notwithstanding.

And your petitioner shall ever pray, &c.

JOHN STAWELL.

A List of the Members of both Houses of Parliament, that were forcibly secluded by the Army in the Year 1648, *or since excluded by a few of their Fellow-Members, confirming that which they formerly disowned.*

This curious tract contains an exact statement of the Rump Parliament, or that part of the Long Parliament, which continued to manage the affairs of the state, after the expulsion of the presbyterian party, by the Act of Violence, commonly called "Colonel Pride's Purge."

The House of Peers.

THE Earl of Northumberland
The Earl of Rutland
The Earl of Pembrook, the Earl of Salisbury, and sitting as commons.
The Earl of Warwick
The Earl of Exeter
The Earl of Lincoln
The Earl of Nottingham
The Earl of Manchester
The Earl of Denbigh
The Earl of Oxford
The Earl of Bridgewater
The Earl of Elgin
The Earl of Winchelsey
The Earl of Dorset
The Earl of Middlesex.

Viscounts.

The Lord Viscounts Say and Seale
The Lord Viscount Conway.

Barons.

The Lord Gray of Warke.
The Lord Dacres
The Lord North
The Lord Roberts
The Lord Montague
The Lord Wharton
The Lord Barckley
The Lord Brook
The Lord Rochford
The Lord Daincourt
The Lord Stanhose
The Lord Maynard
The Lord Craven.

Of the House of Commons.

Bedfordshire.

Sir Roger Burgoyne, Knt.
Sir Beauchamp Saint John } Burg.
Sir Samuel Luke

Buckinghamshire.

Major General Brown
William Drak, Esq. } Burg.
Francis Drak, Esq.
Peregrin Hobby, Esq.

Berkshire.

Richard Winwood, Esq. } Burg.
Robert Packer, Esq. }

Cornwall.

Hugh Boscawen, Knt. }
Thomas Gewen, Esq.
George Kekewich, Esq.
Thomas Povey, Esq.
Francis Hollis, Esq.
Thomas Waller, Esq.
John Thomas, Esq.
John Thynate, Esq.
Henry Willis, Esq.
John Arundel, Esq. } Burg.
Francis Buller, Esq.
Sir Thomas Trevor
John Carew, Esq.
William Prynn, Esq.
Lionell Copley, Esq.
Mr Tempell
Charles L. Car. E. of Ancram
Richard Erisey, Esq.
William Priestly, Esq.
Thomas Dacres, Esq. }

Cumberland.

Richard Tolson, Esq. Knight.

Cambridgeshire.

Sir Dudley North } Knights
Sir Francis Russel }
Henry Lucas, Esq. } Burg.
Nathaniel Bacon, Esq. }

Cheshire.

Sir George Booth, Knight.

Chester City.

William Edwards, Esq. } Cit.
John Ratcliffe, Recorder. }

Derbyshire.

Sir John Curson, Knight.

Devonshire.

William Morrice, Esq. Knight.
Simon Snow, Esq. Cit.

Sir John Young }
John Mainard, Serj. at Law
Sir Edmund Powel
Edmund Powel, Esq.
Eliez. Crimes, Esq.
Charles Pim, Esq.
Sir Francis Drake, Bart. } Burg.
Robert Shapcot, Esq.
Sir Jo. Northcot, Kt. and Bar.
Charles Vauhan, Esq.
Edward Thomas, Esq.
Samuel Brown, Serj. at Law
Christopher Martin, Esq. }

Dorsetshire.

George Scutt, Esq. }
Denzel Hollis, Esq. } Burg.
Sir Walter Earle, Knt. }
John Bond, Doctor of Law }
Thomas Ceelie, Esq. }

Essex.

Sir Harbottle Grimston }
Sir John Clotworthy } Burg.
Capel Lukin, Esq. }

Gloucestershire.

Sir John Seymour, Knight
Nathaniel Stephens, Esq. }
Edward Stephens, Esq. } Burg.
John Stephens, Esq. }

Huntingtonshire.

Edward Montague, Knight.
George Montague, Esq. Burg.

Hertfordshire.

Sir William Litton } Knights
Sir Thomas Dacres }
Richard Jennings, Esq. } Burg.
Edward Wingate, Esq. }

Herefordshire.

Edward Harly, Esq. Knight

Hereford City.

Benet Hoskins, Esq. Cit.
Robert Andrews, Esq. }
John Birch, Esq. } Burg.

Kent.

John Boyes, Esq. — Knight
Thomas Twisdin, Serj. at Law, — Burg.

Lincolnshire.

Sir Anthony Irby, William Wray, Esq. — Burg.
Col. Edward Rossiter, Thomas Hatcher, Esq. — Burg.

Lancashire.

Sir Ralph Ashton, Sir Richard Haughton — Knights
Sir Robert Benloes, Col. Robert Shuttleworth, Peter Brock, Esq., Richard Shuttleworth, Esq. — Burg.

Middlesex.

Sir Gilbert Gerard, Bart. — Knight

Westminster.

John Glynne, Serjeant at Law, William Bell — Cit.

London.

Sir Thomas Soume, Samuel Vassall — Cit.

Monmouthshire.

Northamptonshire.

William Lord Fitzwilliams, Sir Richard Nappier, Richard Knightley, Esq., John Crew, Esq., Sir Martin Lister — Burg.

Norfolk.

Sir John Pottes, Sir John Palgrave — Knights
Sir John Holland, John Spilman, Esq. — Burg.

Northumberland.

Sir John Fennick, William Fennick, Esq. — Knights
Robert Ellison, Esq., Robert Scowen, Esq., John Fiennis, Esq. — Burg.

Oxfordshire.

Thomas Viscount Wenman, John Fiennis, Esq. — Knights

Oxford City.

John Dayly, Esq., John Nixon, Alderman — Cit.
Sir Robert Pye, Nathaniel Fiennis, Esq. — Burg.

Surrey.

Sir Richard Onslow, Sir Ambrose Browne — Knights
John Eveling, Esq., Edward Bish, Esq., George Eveling, Esq., William Owfeild, Esq. — Burg.

Staffordshire.

John Bower, Esq. — Knight
John Swinsen, Esq., Col. Edward Leigh, Samuel Terrick — Burg.

Shropshire.

Sir John Corbet, — Knight
Thomas Hunt, Esq., Robert Clives, Esq., William Pierpont, Esq., Esay Thomas, Esq. — Burg.

Southampton.

Col. Richard Whitehead, Esq., Col. Richard Norton, Esq. — Knights
Sir John Leigh, Sir John Barrington, Sir William Waller, John Button, Esq., Sir William Lewis, Sir Henry Worsley, John Bunckley, Esq. — Burg.

Suffolk.

Sir Philip Parker, Knt., Alexander Bence — Burg.
Maurice Barrow, Esq., Sir Thomas Barnardiston, Francis Bacon — Burg.

Somersetshire.

George Horner, Esq. — Knight

Bristol City. oo

Alexander Popham, Esq.
Col. William Strode, Esq.
Thomas Hodges, Esq.
Thomas Grove, Esq.
William Carrent, Esq. } Burg.

Sussex. oo

Chichester City.

Sir John Temple
Henry Peek, Esq. } Cit.

Harbert Springet, Esq.
Arthur Onslow, Esq.
Paul Ravenscroft, Esq. } Burg.

Westmoreland.

Henry Laurence, Esq. Knight

Wiltshire.

James Harbert, Esq. Knight

William Wheeler, Esq.
Edward Baynton, Esq.
Thomas Moore, Esq.
Sir Nevil Poole
Henry Hungerford, Esq.
Sir John Eveling
Walter Long, Esq.
Edward Poole, Esq.
Major Gen. Edw. Massy, Esq. } Burg.

Worcestershire. oo

John Nash, Esq.
Samuel Gardner } Burg.

Warwickshire. oo

Coventry.

John Baker, Alderman, Cit.

Yorkshire. oo

Sir Charles Egerton
Henry Stapleton, Esq.
William Ayscough, Esq.
John Nelthrope
Henry Arthington
Sir Henry Cholmley } Burg.

Cinque Ports.

Sir John Pelham
Henry Oxenden, Esq.
Samuel Gott, Esq.
Sir Norton Knatchboul
Sir Edward Bambridge
Sir Thomas Parker
Francis Gerard, Esq.

WALES.

Anglesey. o

William Jones, Burg.

Brecknockshire.

Lodwick Lewis, Burg.

Cardiganshire.

Sir Richard Price, Knight

Caermarthenshire.

Col. John Lloyd, Knight

Carnarvanshire.

Richard Wynne, Esq. Knight
William Foxwist Burg.

Denbighshire.

Sir Thomas Middleton, Knight

Flintshire.

Thomas Trevor, Esq. Knight
Thomas Middleton Burg.

Pembrokeshire.

Arthur Owen, Esq. Knight
Sir Robert Needham, Burg.

Montgomeryshire.

Edward Vaughan, Esq. Knight

Radnorshire.

Arthur Annesly, Esq. Knight
Robert Herley, Esq. Burg.

The Remainder of the House of Commons, which have excluded both Houses, and sit themselves.

Buckinghamshire.
Edmund West, Esq. } Knights
George Fleetwood, Esq. }
John Dormer, Esq. }
Thomas Scot }
Simon Mayne } Burg.
Richard Ingoldsby, Esq. }
Bulstroke Whitlock }

Berkshire.
Henry Martin, Esq. Knight
Cornelius Holland }
Daniel Blagrave } Burg.
Edward Dunch, Esq. }

Cornwall.
William Say }
Sir John Trevor } Burg.
John Fielder, Esq. }
Nicholas Gold }

Cambridge University.
John Lowrey Burg.

Cheshire.
Sir William Brereton, Knight

Derby Town.
Nathaniel Hollowes, Alderman, Burg.

Devonshire.
Oliver Saint John, Esq. } Burg.
Philip Skippon, Esq. }

Dorsetshire.
John Pyne, Esq. }
Roger Hill, Esq. } Burg.
John Bingham, Esq. }
John Tranchard, Esq. }

Essex.
Sir Henry Mildmay, Burg.

Gloucester.
Thomas Pury } Cit.
John Lenthal, Esq. }

Huntingtonshire.
Valentine Walton, Esq. Knight

Kent.
Augustin Skinner, Knight
Sir Thomas Walsingham }
Sir Michael Lievesey } Burg.
Augustin Garland }

Lincolnshire.
Thomas Lister, Esq. } Burg.
William Ellis }

Leicestershire.
Sir Arthur Haslerig, Knight
Peter Temple, Esq. Burg.

London.
Isaac Pennington, Cit.

Northamptonshire.
Sir Gilbert Pickering, Knight

Nottinghamshire.
John Hutchinson, Esq. } Knights
Jervise Piggot, Esq. }
Gilbert Millington Burg.

Norfolk.
Erasmus Earl, Esq. Cit.
Miles Corbet, Burg.

Northumberland.
Sir Thomas Widdrington, Burg.

Oxfordshire.
William Lenthal, Esq. Burg.

Rutlandshire.
Sir James Harrington } Knights
Thomas Waite, Esq. }

Surrey.
George Thompson }
Lord Mounson } Burg.
John Godwin, Esq. }

Staffordshire.
Thomas Crompton, Esq. Knight
Sir Peter Wentworth }
John Corbet, Esq. } Burg.

Southampton.
John Lisle, Esq.
Nicholas Love, Esq.
Lord Lisley
William Hevingham
Robert Wallop, Esq. } Burg.

Suffolk.
John Gurdon
Brampton Gurdon } Burg.

Somersetshire.
James Ash, Esq.
Sir Thomas Worth
Walter Stricklan
Dr Palmer } Burg.

Sussex.
William Cawley, Esq.
Harbert Morley, Esq.
Robert Goodwin, Esq.
John Baker, Esq.
John Downes
Harbert Hayes } Burg.

Wiltshire.
Edmund Ludlow, Knight
Michael Oldworth
John Dove } Cit.

Robert Reynolds
Robert Cicell, Esq. } Burg.

Worcestershire.
John Wild, Sarjeant at Law

Yorkshire.
Luke Robinson, Esq.
Sir John Bouchier
Thomas Chaloner
Francis Thrope
James Nelthrop
William White
Henry Darley
Richard Darly } Burg.

Cinque Ports.
John Fagg, Esq.
Benjamin Wilson, Esq.

WALES.

Cardigan.
Thomas Wogan Burg.

Glamorganshire.
Algernon Sidney, Burg.

Merionethshire.
John Jones, Knight

By this List of the Members of both Houses, it appears that the members then sitting or having liberty to sit, which call themselves the parliament, are in number eighty-nine, *viz.* sixteen knights of the shires, six citizens, sixty-seven burgs.

Whereof for	*Kn.*	*Cit.*	*Bur.*
Buckinghamshire	2	0	5
Berkshire	1	0	3
Cornwall	0	0	4
Cambridge	0	0	1
Cheshire	1	0	0
Derby	0	0	1
Devonshire	0	0	2
Dorsetshire	0	0	4
Essex, Sir Henry Mildmay alone	0	0	1
Gloucester	0	2	0
Huntingtonshire	1	0	0
Kent	1	0	3
Lincolnshire	0	0	2
Leicestershire	1	0	1
London	0	1	0

Whereof for	*Kn.*	*Cit.*	*Bur.*
Northamptonshire	0	1	0
Nottinghamshire	2	2	0
Norfolk, Norwich	0	0	1
Northumberland	0	0	1
Oxfordshire	0	0	1
Rutlandshire	2	2	0
Surrey	0	0	3
Staffordshire	1	1	2
Southampton	0	0	5
Suffolk	0	0	2
Somersetshire	0	0	4
Sussex	0	0	6
Wiltshire, Salisbury	1	2	2
Worcestershire	1	0	0
Yorkshire	0	0	8
Cinque Ports	0	0	2

Whereof for	*Kn.*	*Cit.*	*Bur.*
Wales, Merioneth	1	0	0
Cardigan	0	0	1
Glamorgan	0	0	1

Whereof	*Knights*
Bedfordshire	2
Berkshire	1
Cornwall	2
Cambridgeshire	2
Cheshire	1
Derbyshire	2
Devonshire	2
Dorsetshire	2
Essex	2
Gloucester	2
Huntingtonshire	2
Hertfordshire	2
Herefordshire	2
Kent	1
Lincolnshire	2
Leicestershire	2
Lancashire	2
Middlesex	2
Monmouthshire	2
Northamptonshire	1
Norfolk	2

Whereof	*Knights.*
Northumberland	2
Oxfordshire	2
Surrey	2
Staffordshire	1
Shropshire	2
Southampton	2
Suffolk	2
Somersetshire	2
Sussex	2
Westmoreland	2
Wiltshire	1
Worcestershire	1
Warwickshire	2
Yorkshire	2
Wales, Anglesey	1
Breaknock	1
Cardiganshire	1
Caermarthenshire	1
Carnarvanshire	1
Denbighshire	1
Flintshire	1
Glamorganshire	1
Pembrokeshire	1
Montgomeryshire	1
Radnorshire	1

Citizens excluded out of these Cities and out of London.

	Knights
York	2
Bristol	2
Norwich	1
Chester	2
Exeter	2
Oxford	2
Lincoln	2
Worcester	2

	Knights
Chichester	2
Carlisle	2
Canterbury	2
Rochester	2
Bath, &c.	1
Winchester	2
Coventry, &c.	2
Westminster	2

The Hunting of the Foxes from New-Market and Triploe-Heaths to Whitehall, by five small Beagles, (late of the Armie;) or the Grandie-Deceivers unmasked, that you may know them. Directed to all the Free-Commons of England, but in especiall to all that have and are still engaged in the Military Service of the Commonwealth. By Robert Ward, Thomas Watson, Simon Graunt, George Jellis, and William Sawyer, late Members of the Army. Printed in a Corner of Freedome right opposite to the Councel of Warre, Anno Domini, 1649.

When differences first broke out between the Long Parliament and the army, the latter organized themselves under a peculiar kind of representative government. They had their council of officers to be as it were a house of peers, and a sort of senate, composed of common soldiers or subalterns, termed agitators, of whom two or three were elected by each regiment, and who might be termed a military house of commons. In consequence of the deliberations of this hopeful assembly, they seized the person of the king, bid defiance to the parliament by whom they had been levied and paid, and, having met by general rendezvous on Triplow-heath, near Cambridge, they entered into resolutions for impeaching Hollis, Stapleton, and nine other leading members of the presbyterian interest in the House of Commons. The result, as is well known, was the army's taking possession of the city of London, overpowering the parliament, and effectually seizing the reins of government: but no sooner did Cromwell, as general of this extraordinary army, become possessed of the supreme power, than he saw his authority menaced by the very means which had raised him to it. The council of agitators were prohibited to meet; but the private soldiery retained the ideas of independence which that establishment had infused into them. A petition was presented to Cromwell, subscribed by eight troopers of several regiments, asserting the soldiers' right to petition without the consent of their officers, and supporting sundry propositions against the council of state and high court of justice. The council of officers highly disapproving of this letter, committed five of the troopers who had signed it, and condemned four of them by sentence of a court martial to be cashiered in the most disgraceful manner. But neither this sentence nor that of death, shortly after inflicted on another mutinous soldier, had the effect of checking the progress of discontent. Four regiments of horse mutinied, and, had they not been surprised by the active vigilance of Cromwell, who put many of them to the sword, it might possibly have rekindled the civil war.

The spirit, however, which animated the agitators, was not altogether extinguished, as appears from the following curious tract, put forth by the five troopers who had been arrested for presenting the letter to Cromwell. It expresses a bitter sense on the part of these subordinate tools of the use they had been put to for gratifying the ambition of their superiors, and of the contempt with which they had been treated when that purpose was served.

The Hunting of the Foxes, &c.

When we remember our solemn engagement at New-market and Triploe-heaths, and but therewith consider and compare the strange actings that have been and still are carried on in the name of the army, (as if upon the accompt of that engagement) we are even startled at the palpable contrariety and disparity that appeareth betwixt them, for the difference is as great and as wide as betwixt bondage and freedom; so

that it hath put us upon consideration to finde out and discover where the fault lurketh: And upon serious thoughts, wee cannot impute the declinings of the first principles of the army to the army it self, but rather to some persons of private and dangerous interests, usurping and surprising the name of the army; like as it was said of the 11 impeached members, concerning the name and authority of parliament, imprinting the face and stamp of that authority upon their prodigious designs, to the great abuse of the parliament as this must needs be of the army. These, as too many such there be, are foxes of the deepest kind, more deceitfull and pernicious than their predecessours; and that such there are, wofull experience puts it out of question; and who they are, the print of their foot-steps is so evident, that you may trace them from step to step, from hole to hole, to their master den, where you may finde the whole litter of foxes in conspiracy, and you may know them by their shapes. Thus then to their footsteps.

When in the times of Stapleton and Hollis, the then faction was aspired to that height of tyranny and insolency, as to overtop the authority and native freedom of the people, threatning generall vassalage to the whole nation, then the private souldiery (to interpose betwixt the people and their destroiers) drew themselves into that solemn engagement of June 5, 1647, in the attempting and transaction of which they found no small opposition (as may well be remembred) amongst the officers; and at that time, Cromwell highly dissented, notwithstanding the earnest solicitation and importunity of many friends, till he was forced, for fear of imprisonment, to fly to the then engaging souldiery (the day after the first rendezvous) for refuge;[1] and then Cromwell and Ireton, when they saw no other way to preserve themselves and their interest, engaged in the subversion of that domineering tyrannical faction, and assuming high offices to themselves, acting as general officers without the election of the soldiery, or commission from the parliament, being out by the self-denying ordinance, and the general having no power to make generall officers.

And being thus seated, even before they were well warmed in their places, they begin to stomack the sitting of the private souldiers in councel with them, although it is wel known that the actions of the army, moving as an army in relation to that engagement, was first to be concluded of by a councell to consist of those generall officers (who concurred with the army in their then just undertakings) with two commission officers and two soldiers to be chosen for each regiment; but a councell thus modelled was not suitable to their wonted greatnes and ambition; it was somewhat of scorn to them that a private soldier (though the representour of a regiment) should sit cheek by joll with them, and have with an officer an equall vote in that councel. This was a thing savoured too much of the peoples authority and power, and therefore inconsistent with the transaction of their lordly interest: the title of free election (the original of all just authorities) must give place to prerogative patent (the root of all exorbitant powers;) that councel must change the derivation of its session, and being from agreement and election of the souldiery to the patent of the officers, and none to sit there but commission officers, like so many patentee lords in the high court of parliament, deriving their title from the will of their general, as the others did theirs from the will of the king: so that the difference was no other but in the change of names. Here was (when at this perfection) as absolute a monarchy, and as absolute a prerogative court over the army, as commoners, as ever there was over the common-wealth, and accordingly this councel was overswarmed with colonels, lieut. colonels, majors, captains, &c., contrary to and beyond the tenour of the engagement.

[1] During the agitations in the army which succeeded the seizing of the king's person, Cromwell remained in London, professing his attachment to the Commons, and lamenting that he incurred the suspicion of the army for his attachment to the privileges of the house; but finding his professions disbelieved, he suddenly left London with some precipitation, and placing himself at the head of the army, encouraged them in their designs and pretensions. His arrival had a dramatic effect. He came to Triplow-heath at full speed, upon a flea-bitten horse, threw himself on the ground before the soldiers, and without a moment's pause subscribed the engagement to stand by them.

Hence followed secret murmurings and whisperings amongst the prerogative officers against the session and power of the agitators, and at length palpable endeavours broke forth to suppress them; and so soon as the officers had wound up themselves to a faction sufficient to overtop them, and finding the privity of the agitators in their councels was an impediment to their evil interest and ambition, then it was openly given out, that they stood as souldiers only to serve the state, and might not as free commons insist upon their liberty; and that the ground of their refusing to disband was only the want of arrears and indempnity; which, how contrary to their engagement, declarations, representations, &c. hear, O heavens, and judge, O earth! For doth not their declaration of June 14, 1647, in their persons thus speak?

Book Decl. f. 39.

"We shall before disbanding proceed in our own and the kindgoms behalf, &c. especially considering that we were not a mercinary army hired to serve any arbitrary power of a state, but called forth and conjured by the several declarations of parliament to the defence of our own and the peoples just rights and liberties." And if of our own, then not to destroy our right of petitioning, for that is in the number of our own, and so formerly owned by themselves. And further some few lines after they thus proceed:

"The said declarations stil directing us to the equitable sense of all laws and constitutions, as dispensing with the very letter of the same, and being supream to it when the safety and preservation of all is concerned and assured us, that all authority is fundamentally seated in the office, and but ministerially in the persons;" and then, to confirm and justifie their motion as commoners in behalf of the people, they cite the presidents of Scotland, Netherlands, Portugall, and others, adding this, "That accordingly the parliament hath declared it no resisting of magistracy to side with the just principles and law of nature and nations, being that law upon which we have assisted you; and that the souldiers may lawfully hold the hands of the generall (and if of the general, then of Cromwell, Ireton, and Harrison) who will turn his cannon against the army on purpose to destroy them; the sea-man, the hands of that pilot who wilfully runs the ship upon a rock, as our brethren of Scotland argued, and such were the proceedings of our ancestours of famous memory," &c.

Here out of their owne mouths it is confest, that the souldiery are not nor ought to be mercinary, and that the general (and so consequently all the officers) may be opposed by the souldiery in case of an immanent destruction to them; and how absolutely destructive it is to them to be deprived of their right as commoners, and not suffered upon pain of death or cashierment to petition the parliament, but to be rendred meerly mercinary to the lusts and ambitions of two or three persons, to serve their pernicious ends, let the world judge. This is a case so plain, so obvious and evident, as none can deny but that it is a palpable subversion of the right of the souldiery; and therefore, in such a case, they are bound to oppose their officers, and it is no resisting of the general nor of the officers, no more than it is a resisting magistracy, to side with the just principles and law of nature and nations, as themselves have owned and confest, and if they will not stand to it they must be kept to it.

And, besides, if the equity of the law be superiour (as they say) to the letter, and if the letter should controll and overthrow the equity, it is to be controll'd and overthrown it self, and the equity to be preserved; then the rule of the same reason doth tell them, that the officer is but the form or letter of the army, and therefore inferiour to the equitable or essential part—the souldiery; and to be controlled and overthrown themselves, when they controll and overthrow the souldiery in the essentials of their being, life, liberty, and freedom, as the souldiery are, when by the officers rendered meerly mercinary, and denied their right of addresse by way of petition to the parliament, for to be tortur'd, enslav'd, and opprest, and not suffered to complain, but tormented and abused for complaining (although to the parliament, the undoubted right of an Englishman) is the highest cruelty, villany, and slavery can be imagined, even tyranny at the height, and therefore to be opposed by the souldiery.

And thus, and upon these fundamentals of nature and reason, the Netherlands made their resistance against the King of Spain. Thus rose the Scots up in arms, and entered this kingdom, immediately before this parliament, without all formal countenance or allowance of king or parliament, since owned and justified by this parliament. Thus this parliament took up arms against the king, and thus the parliament of France now taketh up arms: yea, thus this army enter'd upon their solemn engagement against the oppressing party at Westminster; and thus may the souldiery renue and revive the same, and even oppose, contradict, dispute, and overrule the commands of their officers themselves to the contrary, and be equally justifiable with the foregoing presidents. But to return to the matter in hand.

When Cromwell and Ireton, and their faction of self-interested officers, thought they had got the souldiery fast by the brain, as to dote sufficiently upon their transaction and conduct of business, they then decline the agitators, decline the engagement, sleight their declarations and promises to the people and army, rendring the agitatours but as ciphers amongst them, corrupting some with places, overruling and overawing others, and so bringing the transactions of the army in order to their solemn engagement only to themselves, under the impression and name of his excellency and his councel of war, and so by degrees, step after step, they cast out the interest of the souldiery from amongst them, destroied the engagement, and broke the faith of the army.

So that the honest souldiery not seeing any redresse, the rights and freedoms of the nation not cleared or secured, no indempnity or security for arrears or provision for present pay, no determinate period of time set when the parliament should certainly end, no publike vindication of the army from that most horrid declaration against the souldiery for petitioning, nor of suppressing and burning petitions, abusing and imprisoning petitioners, &c.

These things the souldiery beholding and observing, endeavoured to restore their agents to a competent power and ability, to make good the faith of the army to the people, but then they found the hottest opposition from Cromwell and Ireton with his faction of officers; as who ever cals but to mind the busines of Ware, when Col. Eyer was imprisoned, and M. Arnold, a private souldier, was shot to death for promoting and assisting the work of the souldiery in reference to the solemn engagement of the army, may know.

And then it may be remembred how insolent and furious Cromwell deported himself against the honest observers of the faith of the army, it being then made death to observe the engagement, or but speak for the agitators. O let that day never be forgotten! Let not the bloud of that innocent person be here had out of remembrance till justice be had for the same; neither let our engagement, or the perfidious perjured subverters thereof, be forgotten, for here the engagement was utterly cast aside, and the agitators laid by, and after, that no more agitators would be permitted; but the sentence of death, imprisonment, and cashierments for all that endeavored the reviving thereof, was denounced. Here the right of the soldiery was clearly destroied, and the general officers became lords of the name of the army, assuming the same to themselves, and setting the impression thereof upon all their future actings, to the abuse and surprisall of the army; although in deed and in truth no transacting since by Cromwell, Ireton, and their officers, though in the name of the gen. councel of the army, wil be accounted or imputed to the act of the army, for it is no gen. councel, neither doth it represent the army, neither hath it the authority or commission of the army therin, for it is another councel, differing from that of the engagement of the army: that was by election, this is by force and obtrusion; in that the soldiery were represented, in this only the officers; that is to consist of those gen. officers concurring with the engagement, two corn. officers and two soldiers chosen out of every regiment; this is only a councel of war,

whose power doth extend to no transaction in the name of the army as commoners, but only to matters of war as souldiers; therefore their propositions and tamperings with the king, their march up to London, their violent secluding of so many members from parliament, their trial and execution of the king, of D. Hamilton, Holland, and stout Capel, their erection of the high court, of the councel of state, and their raigning in and overruling the house, their stopping the presses, committing violent outrages and cruelties therupon, their usurpation of the civil authority, &c. are not to be esteemed as actions of the army, they are not to be set upon the score of the soldiery, for the soldiery hath no mouth in their councels, neither have they therein to do.

Thus it may well be conceived, that their clothing themselves with the glorious garments of that engagement, with their manifold declarations, remonstrances, &c. was but in order to what time hath since made manifest, to heave out Stapleton and that faction, to grasp the sole dominion into their own hands: for by their fair speeches and fawning dissimulations, they courted the souldiery and honest party of the commonwealth into a strong delusion, even to believe their lyes, their enchantments and sorceries. Never were such saints, such curious angels of light; Pharaohs Egyptian sorcerers were short of these in their art. And when by that means they had compassed their ends against Hollis and his, they were so far from insisting upon the premises of their former promises and vows, that they resolve upon an hocas pocas trick with the king, and so set upon the work (to make him a pandor to their dominion and power, to make him a skreen betwixt them and the people,) and they drive it to a bargain. Cromwell to be made Earl of Essex, and that (beside his George and blew ribband) to be a Knight of the Garter, his own son to be bed chamber-man to the prince, and his son in law, Ireton, either lord deputy of Ireland, or, at least, field marshal general of Ireland; and his own son (that commanded the Gen. Life Guard) said that the king had cast himself upon his father and brother Ireton, to make his terms for him, and restore him again. And to that end, they frame expedients suitable to his prerogative principles, cunningly interweaving the same in their business called the proposals for the setling a just and lasting peace, (as they call it) in the heads whereof were couched the several foundations of regal tyranny, seating the whole power and authority of this nation fundamentally in the kings will, making the same supreme, or a law paramount to all the determinations of parliament: This is the unanimous voice of the 1, 2, and 3 particulars under the first general proposal, and the last is a seal to them all. But this expedient failing them, as to their exorbitant intents, they cast off those robes of royalty with which they had rendred themselves acceptable with the king's adherents, and laid aside the king and them, finding the way of an agreement of the people to be much affected and endeavoured after among the souldiery; they also invest themselves with that robe to hide their deformity from the army; and, the better to allay all motions after the same, they confesse and acknowledge the excellency and goodness of the premisses, they only find the same unseasonable; and this was drest out in such taking saint-like language as the religious people might best be surprised, not suspecting any venemous thing to be lurking under the leaf of their holy and sacred pretences; they call fasts (a certain fore-runner of mischief with them) cry and howl, and bedew their cheeks with the tears of hypocrisie and deceit, confess their iniquity and abomination in declining the cause of the people and tampering with the king; and humbly, as in the presence of the all-seeing God, acknowledge the way of an agreement of the people to be the way to our peace and freedom; and even then, as soon as they had wiped their eyes and their mouths, they proceed even to death, imprisonment, or cashierment, of all such in the army as promoted or owned that agreement; and, to fan and cull all such asserters of the peoples freedoms out of the army, they proceed to disband 20 out of a troup; by which the honest party of the souldiery was very much weakned, and all the promoters of freedom discouraged, and the people struck into desperation, which gave

This was delivered by Lieut. Col. John Lilburn, and offered by him to be made good upon his life, at the bar of the House of Commons.

rise unto the second war amongst ourselves and invasion of the Scots. But the same, by the great blessing of God, being over, they finding the old affection of the souldiers not yet quenched or much cooled, and great motions in the several regiments after the freedom of the nation, they then formalize again, and to keep the honest party in suspense, and to wait upon their motions, and so cease from their own, and the better to make way to the ambitious intents of those grandees, they then as a cloke take up the way of an agreement again, to present themselves amiable unto us; and a great pudder they make in their councel about an agreement; and one they brought forth, but such an one as was most abhorred by such as most sought after the way of an agreement, so inconsistent it was with the true foundations of equal freedom and right; but by this means they so far prevailed over the most constant and faithful friends to the people, as to beget an acquiescence in them for a season, till they in the mean time so far effected their business as to the introduction of an absolute platform of tyranie, long since hatched by Ireton; for it was he who first offered that expedient of government by way of a councel of state, which was soon after the armies engagement near New-market-heath, and which ever since he hath kept in the vail; but now the vail is taken away, and it is now presented to the view of all men. But no sooner was this monster born into the world but it devours up half of the parliament of England, and now it is about adorning it self with all regal magnificence and majesty of courtly attendance, &c. and like the 30 tyrants of Athens, to head it self over the people. This is, and yet this is not our new intended king; there is a king to succeed, this is but his vice-roy: O Cromwell! whither art thou aspiring? The word is already given out amongst their officers, that this nation must have one prime magistrate or ruler over them, and that the general hath power to make a law to bind all the commons of England. This was most daringly and desperately avowed at White-hall, and to this temper these court-officers are now a moulding, he that runs may read and fore-see the intent, a new regality! And thus by their Machiavilian pretences and wicked practises they are become masters and usurpers of the name of the army, and of the name of the parliament; under which visors they have levell'd and destroyed all the authority of this nation; for the parliament indeed and in truth is no parliament, but a representative glass of the councel of war, and the councel of war but the representative of Cromwell, Ireton, and Harrison; and these are the all in all of this nation, which, under these guises and names of parliament, army, general councel, high court, and councel of state, play all the strange pranks that are play'd.

Deer countreymen and fellow souldiers, you that by your adventerous hazards and bloud have purchased a precedency in your natural and just rights, consider and weigh these things in your hearts; for surely none are more deeply concerned than yourselves, none are more highly infringed of their rights than you. You are not so much as suffered (how oppressed or abused yourselves, how sensible of the miseries of the publike soever,) to represent your desires or apprehensions to the parliament. While you are souldiers, you (in their account) are no free-men, neither have an equal right in the commonwealth with other of your fellow-members therein. The general now tells us, if we will petition, we must lay down our swords. These were his own words unto us. It seems he hath forgot the contest of the army (in which he concurred) with Stapleton and Hollis, about their right of petitioning as souldiers. Why then (if this must be their received maxime) did he and the general councel (as by usurpation they call it) present their petition, since we presented ours, and not lay down their swords and their high places, and petition as private commoners? We are confident it would be an happy day for England, would they but practise that doctrine they preach unto others. But, alas! dear friends, it is but in this case with them as in all others: They condemned Stapleton and Hollis, because they were not the Stapletons and Hollis's themselves. They condemned private correspondencies with the king, because they were not the corresponders themselves. They condemned the force offered to the par-

liament by the tumult of apprentises, &c., because they were not the forcers themselves. They condemned that monstrous declaration of the parliament against the souldiers petitioning; they condemned the imprisoning petitioners and burning petitions, because they were not the declarers, imprisoners, and burners themselves: as who, that doth but consider their waies, may not plainly discern?

But to trace the foot-steps of those foxes yet a little further, we shall discover their dealings with us. When they heard that the souldiers were about a petition in behalf of themselves and the people for whom they had engaged, they thereat were highly offended and enraged, and desperate motions upon it were made in their conventicle (by themselves styled the general councel;) some moved for an act of parliament, that they might have power to try, judge, condemn, and punish all such, whether of the army or not of the army, as should disturb them (as they now call it) by petition to the parl. or otherwise; and upon the modest reply of one who desired that the execution of civil affairs might be left to the magistrates, Col. Huson answered, We have had tryal enough of civil courts; we can hang 20 before they will hang one; and in the lobby, at the parl. dore, the said Huson, breathing out bitter invectives against us petitioners, who then were waiting at the dore for an answer to our petition, said thus openly, O that any of them (speaking of the petitioners) durst come into my regiment, they should never go out! We shall never be quiet till some of them be cut off for examples, and then the rest will be quashed. There are 10 about this town that better deserve to be hanged than those lords that are at their tryal before the high court. And now the colonels, lieut. col., maj., capt., of this general councel, are now moulding up to that sweet temper; insomuch that, about March 6th, they concluded on the act, it must now be death to petition, or for any country-man to talk to us concerning ours and their freedom. This enforceth us to put you in remembrance of their former words, for out of their own mouths they are judged.

In the book of the armies declaration, p. 17, we humbly represent in their and our behalfs, as followeth: "1.That whereas it pleased the honourable houses of parliament, having received information of a dangerous petition in the army, to declare, and immediately to publish in print to the kingdom, that that petition did tend to put the army in distemper and mutiny, to obstruct the relief of Ireland, and put conditions on the parliament: and declaring the petitioners, if they shall continue in the promoting and advancing that petition, shall be lookt upon and proceeded against as enemies to the state, and disturbers to the publick peace.

"We cannot choose but with sadnesse of spirit be deeply sensible that so humble and innocent addresse couldbeget so strange an interpretation."

Yet now Stapleton and Hollis being removed, are not they in the same steps? Do not they call the humble and innocent addresses of the souldiers to the parliament disturbance to their proceedings and to the publick peace? And do not they seek for worse than a declaration, an act of parliament, to put to death for petitioning? And even as Stapleton and Hollis would have divided and broken the army, under the pretence of relief for Ireland, do not these men now do the like? It was formerly opposed and condemned by them; it is now their own expedient.

In the particular charge against the 11 members, p. 83, article 5, That the said M. Hollis, Sr Philip Stapleton, and M. Glyn, have been and are obstructers and prejudices of several petitioners to the parliament for redresse of publick grievances; and the said Mr Hollis and Sr Philip Stapleton, in the moneth of May last past, did abuse and affront divers petitions, offering to draw their swords upon Major Tuleday and others of the said petitioners, causing Nicholas Tew to be imprisoned in Newgate, and to be detained a long time there, for no other cause but for having a petition about him which was to be presented to the house. O how carefull were they then of the freedom of the people to petition!

In the eighth article, fol. 85, Hollis is charged with procuring of the foresaid decla-

ration against the souldiers petitioning, as a thing to the great dishonour of the parliament, to the insufferable injury, the just provocations, discouragement, and discontent of the army, &c

O Crumwell! O Ireton! how hath a little time and successe changed the honest shape of so many officers! Who then would have thought the councel would have moved for an act to put men to death for petitioning? who would have thought to have seen souldiers (by their order) to ride with their faces towards their horse tailes, to have their swords broken over their heads, and to be casheered, and that for petitioning and claiming their just right and title to the same? Such dealing as this was accounted, in their representation of June the 4th and 5th, 1647, to be against the right both of a souldier and a subject; and in page 33 it thus saith: "And if our liberty of petitioning for our due be denyed us, and be rendered such a crime (as by the said order and declaration,) we cannot but look for the same or worse hereafter, not only to ourselves, but to all the free-born people of the land in the like case." And so this president (if it stand good) would extend in the consequence of it to render all souldiers under this parliament the worst of slaves, and all subjects little better. And though there hath been of late in other men's cases too many dangerous presidents of suppressing petitions and punishing or censuring the petitioners, &c.

Then they could say (page 35) "Let every honest Englishman lay his hand on his heart, weigh our case, and make it his own (as in consequence it is,) and then judge for us and himself." But if we now lay our hands on our hearts, and weigh their present case, what may we say for them or ourselves? We may forbear pronouncing the sentence. They have said for themselves and us.

In the declaration, June 14th, 1647, fol. 44, "We desire that the right and freedom of the people to represent to the parliament, by way of petition, their grievances, may be cleared and vindicated."

In the remonstrance, June 23d, 1647, fol. 58, they account the suppressing of petitioning in the army an infringement of the rights and liberties both of souldiers and subjects. And, fol 60 of the same declaration, a putting the faithfull servants of the parliament and kingdom out of the protection of the law.

Divers other passages of moment, out of their own declarations, remonstrances, &c., might be cited; but here is sufficient to condemne their violence against, and justifie the souldiery in petitioning.

Was there ever a generation of men so apostate, so false, and so perjured, as these? Did ever men pretend an higher degree of holinesse, religion, and zeal to God and their country than these? These preach, these fast, these pray, these have nothing more frequent then the sentences of sacred Scripture, the name of God and of Christ in their mouthes. You shall scarce speak to Crumwell about any thing, but he will lay his hand on his breast, elevate his eyes, and call God to record. He will weep, howl, and repent, even while he doth smite you under the first rib. Captain Ioyce and Captain Vernam can tell you sufficient stories to that purpose.

Thus it is evident to the whole world, that the now present interest of the officers is directly contrary to the interest of the souldiery; there is no more difference betwixt them than betwixt Christ and Belial, light and darknesse; if you will uphold the interest of the one, the other must down, and as well you may let them bore holes through your ears, and be their slaves for ever, for your better distinction from free men: For what are you now? your mouths are stopped, you may be abused and enslaved, but you may not complain, you may not petition for redresse, they are your lords, and you are their conquered vassals, and this is the state you are in: If a souldier commit but a seeming fault, especially if by their tentred, far-fetcht consequences, they can make it but reflect on their prerogative greatnesse, Oh, to what an height that crime, as they call it, is advanced! what aggravations and load is laid upon it! and

if there be never an article in their out-landish mercinary articles of warre that will touch them, yet they find one in their discretionary conclave that will doe the businesse, for there must be no standing against the officers, they must be impeached only by their peers, the souldier must not say black is their eye; if they say the crow is white, so must the souldier; he must not lisp a sillable against their treacheries and abuses of the state, their false musters, and cheating the souldiery of their pay, though it be their constant and familiar practise; that souldier that is so presumptuous as to dare to article against an officer must be casheered: Quarter-master Harby was but the other day casheered but for delivering in a charge of delinquency against Lieut. Col. Ashfield, for his perfideous confederacy with treacherous Lilburn, that betrayed Tinmouth Castle, and dayly honest men are casheered for complaining against their officers; no interest must now stand in the army that is against the interest of their officers, we must all bow to their lordships, and lay down our necks under their feet, and count it our honour that they will but be pleased to tread upon us; but, like worms, we must not turn again, upon pain of death, or casheerment. This makes us call to mind the saying of Ireton to honest Major Cobbett of Snowhill, who, for joyning with the agents of the army, asked him, if he were not deluded in his understanding, in joyning with the giddy-headed souldiers; and advised him not to run against the interest of himselfe and the officers. And now we have plainly found what that interest was, it was long a forging, but is now brought forth; but, like a viper, we hope it will gnaw out their own bowels.

But now, dear friends, that you may see that their conclave of officers at White Hall hath suckt into it the venome of all former corrupt courts and interests that were before them, we shall shew you how the court of the high commission, the star chamber, the house of lords, the king and his privy councel, are all alive in that court, called the general councel of the army.

First, if you do but remember, the king to his death stood upon this principle, that he was accomptable to none but God, that he was above the parliament, and above the people. And now to whom will these be accomptable? to none on earth. And are they not above the parliament? they have even a negative voice thereover. Formerly the commons could passe nothing without the concurrence of the lords, now they dare passe nothing without the concurrence of the conclave of officers; we were before ruled by king, lords, and commons, now by a general, a court-martial, and house of commons: and we pray you what is the difference? the lords were not members both of the house of lords and of the house of commons, but those are members both in the house of officers, (the martial lords,) and in the house of commons. The old kings person, and the old lords, are but removed, and a new king, and new lords, with the commons, are in one house; and so under a more absolute, arbitrary monarchy than before. We have not the change of a kingdom to a commonwealth, we are onely under the old cheat, the transmutation of names, but with the addition of new tyrannies to the old; for the casting out of one unclean spirit, they have brought with them in his stead seven other unclean spirits, more wicked than the former, and they have entered in, and dwell there, and the last state of this commonwealth is worse than the first.

Now as for their high commission and star-chamber practises, if you will be pleased to view over an epitomy of our several examinations before them, you may have a perfect embleme of those courts before your eyes; and to that end (and not out of any vain-glorious folly,) we have subjoyned an abstract of their interrogatives, with our answers, together with their sentence they passed upon us. But first we desire you to take notice, that the matter which they made the occasion of advantage to proceed against us, was a paper which we delivered to the general, a copy whereof (lest you should not have seen it) we herewith present you, and then we shall proceed to our examinations.

To his Excellency Tho. Lord Fairfax, and his Councel of Officers.

May it please your Excellencie, and your Councel of Officers,

We have lately made our humble addresse unto the peoples representors in parliament, concerning some relief to our selves and the commonwealth, by way of petition, the meanest and lowest degree of an English mans freedome that we know of, and yet the same (to our astonishment) hath much distasted and imbittered divers of our superiour officers (in this councel convening) against us, as we perceive, and that even unto death.

We, therefore, being willing to avoid all occasion of offence and division, and to cleare our selves from all imputations thereof, that in justice and reason may be conceived against us, desire that you would be pleased to consider, that we are English souldiers, engaged for the freedoms of England, and not outlandish mercenaries, to butcher the people for pay, to serve the pernitious ends of ambition and will, in any person under heaven. That we do not imagine our selves absolved from the solemn engagement at Newmarket Heath, but to be still obliged before God and the whole world to pursue the just ends of the same; and you may remember your many promises and declarations to the people upon that accompt, which, like the blood of Abel, cries for justice upon the perfidious infringers and perverters thereof in this army. You may further remember, that it hath been a principle by you asserted and avowed, that our being souldiers hath not deprived us of our right as commoners, and to petition the people in parliament we do account in the number of our birth-rights; and you may remember, that in the time of the domination of Stapleton and Hollis, you complained against their then endeavour to suppresse the liberty of the souldiers to petition, as an insufferable infringement of the right of the army and people; and we hope you did not then condemn it in them to justifie it in your selves: when the power was theirs, it was then condemned, but now it is yours, how comes it to be justified? In the point of petitioning, we expected your encouragement, and not to have manacles and fetters laid upon it; it is not the bare name or shadow thereof will satisfie us, while we are gull'd of the essence of it self; it is a perfect freedom therein we desire, not therein to be subjected under the gradual, negative voices of a captain, a colonell, your excellency, or this councel; to pass the test from one negative voice to another for its approvement, we account as the most vexatious labyrinth of thraldom that in this point can be devised, worse then all the opposition and infringements of Stapelton and Hollis; we had rather that in plain terms you would deny us our right of petitioning, and pronounce and proclaim us absolute slaves and vassals to our officers, then secretly to rob us of the right it self. God hath in some measure opened our eyes, that we can see and perceive; and we desire plain dealing, and not to be met half way with smooth expedients and mediums facing both wayes, with specious and fair pretences, to overtake our sodain apprehensions, and unawares steal upon us, and so be defeated, as too often we have been, to the wo and misery of the people and of us; but the burnt child dreads the fire.

Further we desire you to consider, that the strength, the honour, consist in the arme of the souldier. Is it not the souldier that endureth the heat and burden of the day, and performeth that work whereof the officers beare the glory and name? For what is or what can the officer do without the souldier? If nothing, why are they not ashamed to deny us our right to petition?

We have long waited in silence, even while we could perceive any hopes of any real redress from them. But now finding the military power in an absolute usurpation of the civill jurisdiction, in the place of the magistrate executing that authority, by which the sword of the magistrate and the sword of war is incroached into the self-same hands, under one military head, which we disclaim and abhorr, as not having any

hand or assent therein at all. And we find a strange and unexpected constitution of a councell of state, such as neither we or our fore fathers were ever acquainted with, intrusted with little less then an unlimited power, and with the whole force both of sea and land, into which is combined the most pernicious interest of our rotten state, lords, lawyers, star-chamber judges, and dissenters from the proceedings against the king; and which hath already swallowed up half our parliament, and we fear to be an expedient to cut off our parliaments for ever; for if this councel of state survive the parliament, how shall we obtain a new representative? if the parliament sit but till a new one be ready to take their places, farewel parliaments, farewel freedoms.

Further, we finde the just and legall way of triall by twelve men of the neighbourhood in criminal cases utterly subverted in this new constitution of an high court, a president, for ought we know, to frame all the courts of England by, and to which ourselves may be as well subjected as our enemies. And, considering not one oppression is removed, not one vexation in the law abated, or one punctilio of freedom restored, or any fair hopes at all appearing, but oppression heaped upon the back of oppression, double cruelty upon cruelty; we, therefore, from those many considerations, betook our selves, as English men, to make our address unto the parliament, as the proper refuge and authority of the people for our and their addresse, in which by birth we challenge a right, as also by the price and purchase of our hazard and bloud; and our civill rights we cannot yeeld up, we shall first rather yeeld up our lives.

And thus, after the weak measure of our understandings, we judge we have given a rationall and full accompt of the occasion and reason of our petitioning, and, we hope, satisfactory to your excellency and this councell, humbly praying that you will make a charitable and fair construction therein.

And we further desire, that you will take speciall notice of the serious apprehension of a part of the people in behalf of the commonwealth, presented to the house by Lieut. Col. John Lilburn, and divers other citizens of London, and the borough of Southwark, Febr. 26, now published in print. To the which, with due thankfulness to those our faithful friends, the promoters and presenters thereof, we do freely and cheerfully concur to stand or fall in the just prosecution thereof, as the most absolute medium to our peace and freedom that hath been produced; and we hope it will produce an happy effect upon this councel, to prevent the otherwise unavoydable desolation and division that will ensue upon us all, which to prevent, shall be the faithfull endeavours of,

Sir,

Your excellencies most humble servants and souldiers,

ROBERT WARD, SIMON GRAUNT,
THOMAS WATSON, GEORGE JELLES.
WILLIAM SAWYER.

March 1, 1648.

The Examination and Answers of Robert Ward, before the Court Martiall, March 3, 1648.

1. Being call'd in before the court, the president demanded of him whether he owned the letter or no? He answered, Yea; and did admire he should be committed to prison for delivering his judgment to them.

2. They asked him where the said letter was written, and who was present at the writing thereof? He answered, he thought that court had abominated the Spanish Inquisition, and Star-Chamber practice, in examining him upon interrogatories, contrary to their own declarations; and he would rather lose his life then betray his libertie.

3. They told him he had not wit sufficient to compose such a letter: He answered, the letter he did own; and as for worldly wisdom, he had not much; but he told the court, he hoped he had so much honesty as would bear him out in this action, and desired them to remember what Paul spake, how that God did chuse the foolish things of the world to confound the mighty.

4. They said, that, notwithstanding what he might think of himself touching honesty, they would not be afraid to proceed in judgment against him: To which he answered, they might do what they pleased, for he was in their hands, and they might take away his life if they would; but be assured they would bring innocent bloud upon their own heads. They answered, they did not much passe what he did say.

5. They did ask why they did print the letter? To which he answered, that he had been in prison, and it was impossible he or they should print in prison.

6. They asked how he proved the civill and military sword to be both in one hand? To which he answered, that some that sate in councel with them did likewise sit in the parliament and councel of state, contrary to what they had propounded to the people in their agreement.

7. They asked what he had to say concerning the councell of state? He answered, they did consist of corrupt persons, *viz.* Star-chamber judges, corrupt lords, dissenters from the proceedings against the late king, and of taking away the house of lords, and trusted with little lesse then an unlimited power; now, considering the persons, he told them, it seem'd to be very dangerous.

8. They asked him what he had to say concerning the subversion of our liberties by the high court of justice? He answered, that it was a president (for ought he knew) to frame all the courts in England by, considering that the lesser doth conform it self to the greater, and to which himself might be brought to tryall as well as others, and so deprived of all liberty of exception against triers.

9. They asked what he said concerning that clause, That no oppression was removed, the King and House of Lords being taken away, the chief cause of all oppression? To which he answered, that it was not the taking away of the King and House of Lords that made us free from oppression, for it was as good for him to suffer under the king as under the keepers of the liberties of England; both maintaining one and the same thing, *viz.* the corrupt administrations in the law, treble dammage for tythes, persecution for matter of conscience, and oppression of the poor.

10. They asked what he thought of the serious apprehension of part of the people in behalf of themselves and the common-wealth, delivered to the parliament by Lieutenant Col. John Lilburn and divers others? To which he being about to answer, they put him forth with confidence that he did own it.

After this they were all committed to prison again, and after three hours call'd again before the court, and there sentence read; at which time he told the court, that they might as well take away his coat as his sword, it being his own proper goods, and never drew it against any but the nations declared enemies; and he did appeal from them to a just God, before whom both they and he should one day appear to give an account of their actions; for the speaking of which, they told him, that by the articles of war he did deserve death. He told them it was more then he knew, and so was carried again to prison. And for this deportment the marshal general told him he had no more breeding than a pig.

The Examination and Answers of Simon Grant.

The president asked him whether he did own the letter? He answered, he did. Then they asked him when he saw the letter? He told them before he came to the generall. They demanded how long before? He told them two hours. They asked him, when and at

what house, and where he did see it first? But, apprehending they had not wherewithall to condemn him, but, high-commission-like, sought an advantage out of his mouth, he replyed, if they had any thing against him as matter of charge, he desired that they would draw it up against him, and if they would give him time he would answer it. Yes, (said Col. Baxter) and then hee that wrote the letter would write the answer. To which he replyed, it was his pleasure to say so. Then the judge advocate asked him, whether he did apprehend the martial sword and the magisterial sword were encroached into one another? He answered, he did apprehend it was so, because he did see daily that many souldiers did go about to draw and pull men out of their houses, as well as the civill magistrate, yea, and more. Then he was asked whether he did own all the letter? He answered, he did own it all. They told him there were many lies in it, and asked whether he did own them? but hee replyed, that (as he conceived) there was none, he had set his hand to it, and would own it. Many more such like catechizing interrogatories they put to him, but as frivolous as these.

The Examination and Answers of Tho. Watson.

The president first demanded of him whether he did own the letter? He answered, he did own it. Then Col. Huson standing in the court, told him he had proclaimed open wars against the generall and councell. He answered, Col. Huson had past sentence upon him,—it was in vain for him to say any thing. One of them replyed, that he knew not the practice of the court. He answered, that they had no reason to accuse or condemn him for declaring his mind in reference to his freedom, because they had declared in their own declarations, that in such things a man might write and speak his own mind freely. Nevertheless he told them, if they had a charge against him, and would produce it, he would answer it if they would give him time; although they were not capable to judge him, because they declared he had abused the general and the councel; and he had never heard that they who were the accusers ought also to be the judges.

Col. Baxter asked him who wrote the letter? He answered, he came not to accuse himself or friends. Then he asked where it was written, and in whose house? He answered, in London. Baxter asked why he gave orders to have it printed so quickly? He replied, how can you prove that? Then the judge advocate told him, it would have been better for him if he had confest, he had found more mercy from the court, for his obstinacie would gain him nothing. To whom he replied, they had a limited power, and could do nothing but what God permitted them, and they must once appear before a righteous Judge; but as for their censure he valued it not. So he was remanded back to prison.

The Examination and Answers of George Jelles.

They demanded if he would own the letter? He answered, he would—his hand was to it. They asked if he did write it? He answered, he did own it; and desired to know whether they would judge him in matters relating to the freedom of the commonwealth by their martial law? They told him they would, being a souldier: to which he replied, he was also commoner of England; but if by their martial law he must be judged, he desired to know by what article, in regard he had broken none? It was answered, upon the article for mutinie, and it was death. He replied, he had made no disturbance in the army, and told them, that in the time of the predominance of Stapleton and Hollis, they then declared the souldiery might petition the parliament, but now the power was in their hands, the souldiery had lost the liberty thereof; and so desired God and the whole world might be judge betwixt them. And upon his desiring of them to know whether they had seen the agreement or no, they answered they had. He replied, it

was therein concluded, that the military sword and the civil sword should not be encroached under one head. They answered it was so, but that was left to the next parliament to alter. But we wish they would tell us when that shall be; it is to be feared it is never intended, for it is scarce imaginable they will ever venture the test of a new representative, except they keep it under the sword as they do this; let us have but a free successive parliament, and wee'd run the hazard of it.

Thus he that considereth their catching questions, and but remembreth the High-Commission and Star-Chamber proceedings, shall find no difference betwixt these courts but in name. Wherefore all English souldiers or commoners that have the least spark of true love to themselves and their countries freedom, are bound now or never to unite themselves against those apostates, those jesuites and traitors to the people. Those are the levellers indeed: for what have they not levelled? There is no trust or confidence ever any more to be had in them, for they have broken their faith with all parties, by which they have advanced themselves to this height of dominion into which they are intruded; and now they reigne as kings, and sit upon the throne of their predecessor, whom they removed to take succession over the people.

And now we shall give you a copy of their sentence they passed upon us, the which Baxter, being president (as they call it,) pronounced as followeth:

"Gentlemen, for so I think I may without offence call you, for as yet you are souldiers, but truly you are not long to continue so; for you are guilty of high crimes, as your letter here by you owned doth manifest, being scandalous to the parliament, counsel of state, high court of justice, and tending to breed mutinie in the army; for which you have in an high measure deserved death, but through the great mercie of the court that is waved, and truly they have waved the sentence again and again, and now they are come as low as possibly they can, and it being late, I shall declare unto you your severall sentences, which are as followeth:

"You shall ride with your faces towards the horse-tailes before the heads of your severall regiments, with your faults written upon your breasts, and your swords broken over your heads, and so be cashiered the army as not worthy to ride therein; and a proclamation to be made that none shall receive you into any troop, company, or garison. And this I would have you look upon as a great mercy of the court."

Which sentence was accordingly executed upon us, in the great Palace-yard at Westminster, March 6.

Thus you may see to what passe we are brought. What they have done to us in the consequence thereof it doth extend equally to you all; for what they have done to us to day you are liable to suffer to morrow. Thus you may see they are wolves in sheeps clothing, foxes in the habit of saints, and their footsteps are in some measure traced and laid open unto you, from their beginning of engaging with the army to their present residence in Whitehall; so that from hence we may safely conclude with the saying of one of their creatures, that they did not intend to keep the engagement, but provided the acquiessing businesse at warre on purpose to make void their engagement. We shall say no more at present, onely add a coppy of a petition to the parliament on which the souldiers of the army are proceeding.

To the Supreme Authority of the Nation, the Commons assembled in Parliament.

The humble Petition of the Souldiery under the Conduct of Tho. Lord Fairfax,

Sheweth,

That we esteem the liberty of addresse by way of petition to this honourable house a prime and most essentiall part of freedom, and of right belonging to the meanest member of this commonwealth.

That we humbly conceive our being souldiers to be so far from depriving us of our share in this freedom, as that it ought rather to be a confirmation thereof to us, we having with our utmost hazard of our lives been instrumentall in preserving the same.

That the power of the officers doth onely extend to the marshalling and disciplining of the army, for the better management and execution of marshall affairs, and that we submitting thereunto, do perform the utmost of obedience that can be required of us as souldiers. All which notwithstanding, as we are in the capacity of common-wealths men, we judge our selves as free as any other of the people, or as our officers themselves, to represent by way of petition to this honourable house, either our grievances, informations, or whatsoever else may tend either to the right of ourselves or the benefit of the common-wealth. And this is no more than what our officers themselves have declared to be our right, and without which we should be our selves the worst of slaves.

That the extraordinary actings of the army, distinctly of themselves, in reference to the common-wealth, are grounded upon our solemn engagement at Newmarket and Triploe Heath, June 14, 1647.

That the souldiery, by that engagement, hath an equall right and propriety in and to the transactions of the army as commoners.

That the officers in matters of that concernment are not (without a free election and consent) the representers of the souldiers as commoners, but are onely their conductors in military matters.

That by vertue of our solemn engagement, nothing done or to be done, though in the name of the army, can be taken as the sense or the act of the army, so as to be imputed to the army, that is not agreed unto by a councell to consist of those general officers who concur with the engagement, with two commission officers, and two souldiers to be chosen for each regiment, or by the major part of such a councell.

That if your honours conceive it meet in your actings to concur with the actings of the army, then it is necessary that, with the sense of the officers, you shall require the sense of the souldiers, else not to account of it, or trust to it as the sense of the army; and without this we conceive you cannot be safe, for it is small security, as to the act of faith to the army, to receive the sense of the officers, without the concurrence of the souldiers in councell, as aforesaid.

That being ejected and deprived of our right and property in that councell, we still conceive our selves at freedom to petition this house; but yet in the late exercise thereof amongst some of us, we have been very much abused and menaced, and orders thereupon made by the generall councell to interrupt our free access to this honourable house, subjecting our petitions for approvement to pass the test from officer to officer, by which the sense and understanding of the souldier is surprised and overawed to the pleasure of the officer, that he must neither hear, see, nor speak, but by the eyes, ears, and mouth of the officer, so that the souldiers right of petitioning is hereby taken from them; for to petition in that case can be at most but the bare sense of a few officers, inconsiderable in comparison of the souldiery, and so not the mind of the army, for the officers disjunct make not the army.

That to our great grief we are inforced to complain to this honourable house, that some of us, to wit, Simon Grant, Robert Ward, Thomas Watson, William Sawyer, and George Jelles, were sentenced by the court martiall to ride with their faces towards their horse-tails, to have their swords broken over their heads, and to be cashiered the army, as unworthy therein to bear any arms, counting it as a mercy of that court that their lives were spared; the which sentence was accordingly executed upon them in the great Palace-yard at Westminster, March the sixth; and all was but for petitioning

this house, and e ivering a paper of account of that action to the generall councell, which is ready, if call'd for, to be produced. The consideration whereof doth exceedingly agrieve us, to think that we should in vain undergo our former hardships, that, instead of additions to our freedoms, we should in this opprobrious manner be rendred the worst of slaves, for we take it as done to our selves; and that to be deprived of our rights, both as souldiers and English-men, as unworthy to petition or bear arms, and that by such as are such glorious pretenders to freedom, is a matter of amasement to us, considering the crime (as they call it) was no other then above-mentioned.

Wherefore, from these weighty considerations, we are enforced to apply our selves again unto this honourable house, and to desire,

First, That, as heretofore and according to right, we may be as free to petition this honourable house as other our fellow-members in the commonwealth; and that we may with free and uninterrupted accesse approach with our petitions (though by enforcement) without our officers, as the officers have done in declining of us; and that, for our clear satisfaction, you would declare unto us, that it is the undoubted freedome of the souldiery to petition the parliament, either singly of themselves, or joyntly with their officers, or with any other well-affected of the nation whatsoever, otherwise we cannot but look upon ourselves as vassals and mercenaries, bound up by the pleasure and understandings of other men.

2. That the power of the officers and present councel of the army may extend only to the marshalling and disciplinating thereof, and that in matters which concern the common wealth, we may not be concluded by these debates, or any thing of that nature taken as the judgment of the whole army, but of the subscribers only, unlesse we shall personally or deputatively give our approbation and consent thereunto.

3. That you would require a revocation of their order prohibiting us from petitioning but by our officers.

4. That our forenamed fellow-souldiers, by order of this honourable house, may be restored to their former places in their respective regiments.

5. That, according to our solemn engagement, we may not be divided nor disbanded either in part or in whole, or any of us engaged for Ireland, or any service whatsoever, untill full satisfaction and security be given us in relation to our rights, both as souldiers and commoners, that we ourselves, when in the condition of private men, and all other the free people of England, may not be subject to the like oppression and tyrannie as hath been put upon us.

6. That the desires of our former petition, which in most particulars hath been shadowed forth by a petition of the officers, as also the serious apprehensions of a part of the people in behalf of the commonwealth, presented to this house Feb. 26, by Lieut. Colonell Jo. Lilburn,[1] may be speedily taken into consideration, and effectually accomplished, that so we may be more and more encouraged to venture our lives in the protection and defence of so good and just authority.

And your petitioners shall pray, &c.

FINIS.

[1] Upon which day the celebrated John Lilburne, commonly called *free-born* Lilburne, delivered a petition to the house, with many names subscribed, praying for annual parliaments, the abolition of tithes and taxes, the removal of those who had been long in the supreme military command, the mitigation of the grievance of court-martials, the dissolution of the council of state, and other topics of a popular nature.

Duke Hamilton, Earl of Cambridge, his Case, spoken to, and argued on the Behalf of the Commonwealth, before the High Court of Justice. By Mr Steel of Gray's Inn.

Printed in the year 1649.

The unfortunate James Duke of Hamilton and Earl of Cambridge, seems to have been a person whose parts were inferior to the situation in which his rank placed him during the civil wars, and to that, perhaps, we are to ascribe an indecisive ambiguity of conduct which sullied his character even with the royalists, in whose cause he finally laid down his life. After omitting many opportunities of effectually serving the royal cause, he at length declared in its favour, when the king's state was altogether desperate, and having prevailed upon the Scottish parliament to enter into what was called the Engagement, he marched into England at the head of a numerous but ill-disciplined army, which, after sustaining many lesser checks, was totally and disgracefully routed by Cromwell at Uttoxeter. Hamilton was taken prisoner and sent to Windsor, where he had a last interview with his unfortunate sovereign. The duke burst into tears, and falling at the king's feet, could only exclaim, "My dear master!"—"I have been indeed a *dear* master to you," replied Charles, and their guards then forced them asunder. After the fatal 30th of January, it was resolved to bring Hamilton to the block. This, however, was a matter of delicacy, for the Duke pleaded, that, being a prisoner of war, and a subject of Scotland, he could not be tried for acting hostilely against England (to him a foreign kingdom) in obedience to the parliament and supreme authority of his own. But, to invalidate this plea, it was resolved to proceed against him not as Duke of Hamilton in Scotland, but as Earl of Cambridge, a naturalized subject of England. After the case had been debated in more than ten sittings of the court, (Steel and Cook being heard as counsel for the people of England,) the well-known Bradshaw, president of the High Court of Justice, past sentence of death, which was executed by decapitation, upon 9th March, 1649.

Mr Steel's Speech before the High Court of Justice, upon Occasion of the first coming of the Earl of Cambridge to the Bar, February 9, 1648.

My Lord,

That power which was at first in families, towns, and then in greater collective bodies, was after, for the better conservation of the whole, disposed into bodies politic and representative. *Principium originis* is the privilege of the one, as dispensation is of the other; which distinction as easily prevents all disputes about the pre-eminency of these powers, as it usually satisfies that question touching bodies natural, *viz.* Whether the *primum sensorium* be to be ascribed to the heart or head? Of the birth and growth of these powers, God himself gave us some resemblance, when that *lux primogenita*, the light created on the first, was upon the fourth day contracted into those heavenly lights which were the first created rulers of this world. The powers of men thus settled, were invested with various immunities suitable to their offices, as so many beams flowing from them for the good of mankind; and amongst these I know none more bright and influential to the world, than that of justice; which, when 'tis rightly darted into the hearts and hands of men, doth not prove like that sword behind the

Ephod, but rather as that of Gideon, and sometimes upon just occasion, like that which hung over the head of Damocles, ready to do speedy and impartial execution: Of this power I both suppose this honourable court to be the proper subject, and the now prisoner at the bar the proper object.

The proceedings of justice are called streams of righteousness, for their clear and current passage; and, my lord, what if no gallant ship nor galley with oars sail in these of yours, yet, if the glorious Lord vouchsafe you his presence, he will be broad rivers to you: What if others of inferior rank spare not to load your persons and actions with reproaches? yet you know, notwithstanding *Latratus Canum*, what is the posture of that faithful witness in heaven, *Et peragit cursus surda Diana suos*: And as for this lord, brought by a divine hand to appear thus before you, I may say of him, *Quæ alios divisa reos faciunt in hunc conjuncta fluunt*, so fit is he to stand at the bar of justice. To look upon him as he now appears, may perhaps move compassions, as once *Date obolum Bellisario* did to that great commander (and indeed, my lord, however his crime may be above your mercy, yet I would not have his better part either be beyond your prayers or pity;) nevertheless, that you may take a right view of those actions for which he is here convented, I wish he may rather be looked upon as marching the last summer, in the head of twenty thousand men, in an hostile and treacherous manner, to invade this nation, as if that, which some feared in the argument of Calvin's case, if the judgment should pass, as it afterwards did, were under this man's conduct come to pass, *viz.* That the Scots, ambitious of such a privilege as to be denizens of England, would thereafter come like *avers sans number* into the English commons; or as if he were willing to revive the truth of that observation of Comines, that what Portugal was to Spain, and the Venetians and Florentines then to Italy, that was Scotland of old to England, a scourge to mind them of their duties to God, and to keep them humble; but more particularly to touch the aggravating circumstances of this horrid treason, and therein to omit the mentioning of those personal benefits this nation had afforded him, by making him capable of their own dignities and privileges, equal to any natural-born Englishman, and to take the dimensions more peculiar to this rebellion. We were the last year, after a tedious storm of war, beginning to rejoice in the hopes of seeing the vessel of this state come safe in the harbour of peace; but the enemies of England's happiness, and of their own, were not willing to enjoy this blessing upon the terms it was purchased; an harmonious spirit must pass betwixt the south and north, the vessel again launch into the deep, all our hopes of settlement be indangered, and the poor wasted northern counties, which ere now expected a jubilee, must, by these brethren in cruelty, be used like Sechemites, and again tormented, before they be healed of their old sores, as if they now came to take livery and seisin of those counties, which some affirm were promised them as part of their reward for this service: And all this, as against those solemn treaties transacted in 1642 and 1643, for the union of both kingdoms, and those engagements not to make war with each other before three months warning, nor to garrison Berwick or Carlisle without consent of both parliaments; so also against the frequent premonitions of the general assembly in Scotland (the assembly here also, by their letter, signifying their concurrence with those endeavours of the Scotish divines,) and both agreeing this expedition to be against, not for the ends of, the covenant; but whilst these invaders were thus forewarned, they notwithstanding fore-arm themselves in the worst sense for us: But two circumstances above all seem to me to extend the vileness of this fact beyond all aggravations; the one, that the parliament of England, whilst they in Scotland were forming their weapons against us, by their commissioners residing there, often signified their desires of preserving a brotherly agreement; howbeit, instead of receiving any other satisfaction, we must be answered, *Per argumenta baculina*; the other, that

their coming in must be for the ends of the covenant, that being usually made the stock whereon to graft their desperate designs, thinking thereby, as to mask their own deformities, so to seduce many well-meaning men into their confederacy; and from thence, as this third war was called *Bellum Hypocritarum*, so may the prisoner, under whose command in chief they came, be justly stiled *Hypocritarum Princeps:* The parliament of England hereupon appealed to heaven by their declaration, and therein prophetically spake what came to pass, that they doubted not but God would be with them, and the prayers of his people for them; and that those who had dealt falsly, in striking hands with the common enemy, to kindle a new fire betwixt these kingdoms, should perish themselves therein; upon which appeal the highest judge gave out his righteous decree, *et spes hypocritarum periit;* and had he not indeed appeared for his despised people, by a more than ordinary rule of his dispensation, and enabled a small company of men, like stars in their course, to fight against and vanquish this Sisera and his mighty host, England doubtless ere this had been a field of blood: Of this unnatural and unchristian army, thus totally, by a power from heaven, routed, *habemus ducem*, we have here present the principal author and actor, against whom the pillaged depopulated counties, the blood of many innocents, many of his own countrymen, both at home and now in foreign parts, and God himself, by the strange and speedy delivery of him into your hands, after his escape from Windsor, coming himself sooner than possibly he could have done, if sent for, immediately after the former execution, do all unanimously call for a just sentence, and the same do I in the name of the people of England.

The charge being read against the said earl, containing matter of high treason, for his invading this nation in an hostile manner, and levying actual war therein, he thereunto put this ensuing plea.

The Plea of James Earl of Cambridge, whereby (as he alledged) he was not to be tried for Treason within this Kingdom.

I. That he was employed by the parliament of the kingdom of Scotland, not to invade this kingdom, but for the ends they have declared, sent to the parliament of the kingdom of England.

II. That he is no Englishman, notwithstanding the naturalization of his father.

III. That he is a prisoner of war, rendered upon articles by Major-General Lambert; and that those capitulations were made before his rendition with Major-General Lambert's commissioners.

The Argument of Mr Steel, on the Behalf of the Commonwealth, touching the Matter of Law in the Case of the Earl of Cambridge.

My Lord,

The council for the Earl of Cambridge have framed their arguments upon the fact, as they conceive it proved, and also by admittance of the contrary in some points; I shall use the same method; first arguing from the fact, as I conceive it stated by the proofs produced, and then by admittance of the contrary, that though the fact should be as they would have it, that yet the law will fall out to be against them.

The charge being read to the prisoner, he hath thereunto put in his plea, consisting of three parts, the truth and validity whereof hath been denied on the behalf of the commonwealth.

First, The first part of his plea was, That he was employed by the parliament of

the kingdom of Scotland, not to invade this kingdom, but for the ends declared by them. The improvement made of this part of the plea is, That the earl was but a servant in this expedition, and under the authority and command of another, and tied under oaths and penalties to give obedience; if he had disobeyed he had been liable to punishment; therefore it were hard for him to be punished for obeying: Also, That he hath not exceeded his commission; besides the parliament of England, in their declaration of the 17th of February last, lay the blame of this invasion upon the parliament of Scotland. And, lastly, That the earl's case is not unlike that of an ambassador, who is not to be blamed for acting against a state, if he have it in *mandatis*, as in the case of the Bishop of Ross in the reign of Queen Elizabeth.

By endeavouring to give satisfaction to all which, I shall dispatch what I have to say upon this first part of the plea.

I shall admit it proved that he had that commission and authority mentioned, and also, that the rule is generally true, That a man is not to be punished for an act which he doth by the necessity of obedience, because he hath not *solutum arbitrium*, which is required to denominate actions either blame-worthy or excusable; but I shall easily prove that this rule is capable of restrictions, both by the rules of law and reason; and if we observe the distinctions aright which determine this question, we shall still find the Earl of Cambridge within that part which renders him inexcusable.

First. The first difference is, where the action is lawful and where unlawful, which is commanded; if it be lawful, a superior command may dispense with some circumstances; but if unlawful, the servant obeying is not the less to be blamed. I never held that law of Ina, the Saxon king, to be warrantable divinity, *Servus si quid operis patrarit die Dominico ex precepto Domini sui Liber esto*, if the precept itself were unjust.

Now for the action in question, wherein this earl was engaged, it is not defended by his own council, the dispute being only *de modo*, whether he be to be punished as an enemy or as traytor, though if this argument held, he were neither way to be punished; and therefore certainly the necessity of his obedience is no mitigation for his crime; and if it should, Empson and Dudley, with all their monopolizing successors, had been unjustly censured, who always have had patents and commissions from authority to plead: And so also all that catalogue of former traytors, who have hatched their treasons and designs against this state in foreign parts, and have ever had the pope or foreign princes to put a stamp of authority and command upon them, must, by this argument, be in some measure justified.

It was never expected from any under command, to write himself more a servant than *usque ad aras*, those being the Hercules's pillars whereon a *non plus ultra* is written, and therefore whoever exceeds those bounds he will find it to be at his peril.

Secondly. The second difference is, where the instrument is *inanimatum*, and where an active living instrument; of the first it is truly said, *instrumenti nulla vis*, all being therein attributed to the principal efficient, but otherwise of the other: From hence the statute of 1, 2 Phil. and Mary, cap. 10, did justly repeal the statute of 33 Hen. VIII. c. 20, which had punished a man for treason, though he became *non compos mentis* before the execution; and no less justly did 25 Edw. III. *de proditionibus*, by the word imagination, alter in the like point that law which was in use till then, concerning such a person's committing the act of treason, such an one being no better than *quasi inanimatus*: But who can affirm this earl to be other than an active and vigorous instrument, *non modo vivit sed in senatum venit*, being a chief member of that parliament, under whose command he would shelter himself, and by that means is a master rather than a servant, and so met with by that declaration of the parliament of this kingdom, of which he would have made an argument for himself.

Thirdly. Where there is *necessitas culpabilis*, the law will not excuse, as it will where

there is no crime in contracting the necessity. Those who in former times gave victuals and provision to Sir John Oldcastle, were not punished as traitors, because they did it (say our records) *Pro timore mortis, et recesserunt quam cito potuerunt, 3 Inst.* 10; and upon this reason seems that opinion of Tremayle to be grounded, in 21 Hen. VII. 39, That a servant may justify the killing of another to save his master's life, if he cannot otherwise escape.

But if one being drunk commits a crime, though he hath not properly and immediately the free exercise of his will, yet the law reputes him *voluntarius Dæmon*, and he is not at all the less excusable by our law, 1 *Inst.* 247. 4. *li.* Beverley's case; and by the philosopher's rule, such a one doth *ignorans*, not *per ignorantiam agere*, and is therein so far from being excused, that he is therefore to be doubly punished.

Now to assume that whereby the earl's council would excuse him, *viz.* his oath and commission, renders him the less excusable, because both are strong arguments of a free and full consent; for who can imagine them of Scotland to be such mean statists, as to think that oath equally obliging, which was compulsive, to the same, if freely taken, or that the general should be trusted with a commission over all their forces both by sea and land, as his commission runs, whose heart as well as hand had not embraced it; and truly, they that have heard his letters read to Sir Marmaduke Langdale, wherein he prays for the increase of the distractions at London, and for his friends at Colchester, would not judge him an unwilling instrument, but one exceeding, rather than falling short in executing his commission.

Lastly. Necessity of obedience may excuse in *privatis*, but never in *publicis:* If a feme covert, together with her husband, commit an act which in another would amount to felony, yet in her it shall not, because *sub potestate viri*, 27 *Ass. p.* 40, but otherwise the law is in point of treason, and so is the judgment of my Lord Verulam, *nec valet privilegium* (saith he) *contra rempublicam.* And as to the case of an ambassador urged on the other side, and in particular of the Bishop of Ross in the days of Queen Elizabeth, I answer, first, the privileges of those who are entertained as ambassadors are very great, and not to be made precedents, or assumed by any other, whence *Pro regis Dedecus redundat in regem*, and therefore, before 25 Edw. III., it was treason to kill an ambassador, 22 *Ass. p.* 48; and from hence might arise that privilege shewed to the Bishop of Ross. *Secondly*, It appears to be rather an act of grace than of justice, that that bishop was freed, because he was set at liberty after a long imprisonment, which, if not liable to the censure of the law, he should not at all in justice have endured: Also, by the judgment of my Lord Bacon, cited by the learned doctor on the other side, in point of conspiracy against the state, even an ambassador is not privileged; yet of this bishop learned Cambden saith, in his *Eliz. Fuit liberatus qui rebellioni clam faces subjecerat*, all which were arguments of grace, and therefore that case will be no precedent for this, wherein also conspiracies and correspondencies with many of this nation have been proved, and are otherwise notorious.

And for that inevitable labyrinth out of which the Earl of Cambridge cannot extricate himself, but that whether obey or not obey, he is under a mischief, he may for that thank himself, *volenti non fit injuria*, this is like the plague of an erroneous conscience, which, whether obeyed or not, proves a tormentor to its subject.

Secondly. The second part of the earl's plea is, That he is no Englishman, notwithstanding the naturalization of his father; which, in effect, is as much as to say, and so it hath been insisted on, he is by birth a Scotsman, and by consequence an alien to, and not triable as a traitor by the laws of England: Concerning the handling of which question, it being that whereupon the validity of the other two doth, in my judgment, principally depend, I shall first answer the material objections which I conceive made by the council on the other side, before I offer any thing positively to assert the invalidity of this part of the plea.

Obj. It hath been said, the proof is not clear, for the Earl of Cambridge his being a *postnatus, viz.* one born after King James's access to the crown of England, and that being but a *non liquet, in favorem vitæ,* the most favourable construction is to be taken for the prisoner.

First, *Answ.* I deny that the proof amounts to no more in this particular than a *non liquet*; for there is one positive witness that speaks directly to the earl's birth, after King James his coming to the crown of England; another speaks to the earl's own confession of being about two or three and forty years of age, which speaks him born since that time; and a third speaks to the common report of his being born since; and if the proof were but *semiplena probatio;* yet as Bracten saith, that amounts to a presumption; and, saith he, *presumptioni stabitur donec probetur in contrarium,* especially when the earl himself, who should have proved the contrary for the making good his plea, hath offered nothing against it, and being asked, never absolutely denied it.

Secondly. I do agree, that what the Jewish expositors observe in the exposition of their laws, which sounded in favour, is to be observed in our law, in those things which we usually say the law favours, viz. *Favores sunt ampliandi,* and that strict expositions are only for penal rules, according to that of the civilians, *constitutio penalis non excedit casum,* yet we shall find, that where the penalty of a penal law is against one or few persons, and the benefit redounds to the generality, in that case even a penal statute shall be taken largely against the offender, so the rule is put, Plow. Com. 36. Plat's case, where it is resolved, though the statute of 1 Rich II. c. 12. give an action of escape against the guardian of the fleet; yet for the reason abovesaid, it is, though a penal law, by a benign interpretation, to extend to the sheriff of London; and in like manner, if there were any latitude in cases of treason and murder (as there is not) yet to extend it on the behalf of the prisoners might prove to many thousands, *crudelis miserecordia.*

Thirdly. Add to this, that the law of England is so tender of the public weal, that though, in other cases, it may seem to insist too much upon formalities, yet herein it will dispense sometimes with its most certain rules: Hence it is, that if one pass over another's land without his consent to fetch a falcon or the like, he may be punished as a trespasser; but not so if to hunt or kill a fox or an otter (which instances, I suppose, not unsuitable to the prisoner) because these are creatures *contra bonum publicum,* which reason the book gives of the law in that case, 12 Hen. VIII. 10. For the same reason, no man shall be punished as a trespasser for erecting bulwarks on another's land, Dyer 36 Maleverer's case: And hence certainly was the reason of that ancient law, that capital offenders, who had transgressed against the law, had *lupina capita,* and might therefore by the justice of *lex talionis, arte perire sua;* wherein the law followed *naturæ ordinem:* The rules of nature are most constant, yet, for the preservation of the whole, it will sometimes contradict itself, as to prevent a *vacuum,* and the like, what an inversion do we see of nature's most constant and ordinary rules: Do not they then in this prove somewhat unnatural, and embrace a cloud instead of substance, that fear not to omit the weightiest things of the law, rather than, in cases of invincible necessity, dispense with some formalities?

Obj. But though the Earl of Cambridge were a *postnatus,* yet he is *quasi ligeus acquisitus* unto England; and if so, as his allegiance began with an act of the nation, so it might determine by an act of the same power, to wit, by command from the parliament of Scotland.

First, *Answ.* The strength of this objection if admitted would (as I conceive,) by a new invented distinction, overthrow the learned and solemn resolution of all the judges and chancellor of England, 6 Jac. in Calvin's case, wherein all the allegiances that the wits of men could imagine are enumerated, and they are but four, viz. *Ligeantia Naturalis, Acquisita, Localis,* and *Legalis;* and, by the judgment of that case, Robert Calvin,

son and heir to James Lord Calvin of Colcross, in Scotland, born three years after King James his access to the crown (as also all other so born) were adjudged subjects of this kingdom of England *Legeantia Naturali*, by the best and highest allegiance, without any *quasi* at all, in the same kind, and to all intents and purposes that any natural-born Englishman was.

Secondly. The objection seems to me not only to be against the judgement of this case, but against reason also; for what acquisition is there by the party, or what contributes he to it, whether he be born in this or that time or place; the conceit that there is any act of the party's in this (as there must be to make a *quasi Ligeus acquisitus*) seems to savour of the Pythagorean metempsychosis, or that opinion of Plato, who held a pre-existence of souls, which after came into the bodies, *tanquam in ergastula.*

Obj. It is inconsistent to have two natural allegiances to two several kingdoms, as it is impossible to have two fathers, in which case *major relatio trahet ad se minorem*, and in that case the earl is rather to be reputed a subject of Scotland where he was born, than of England.

First, *Answ.* It is indeed inconsistent, that the same person should in two several kingdoms have two original allegiances, in a physical acceptation, to wit, to be so born; yet, by construction of law, he that is born in Scotland may have an allegiance to England equivalent with the other; thus Calvin, by the resolution of that case, was *Scotus patria*, and *Anglus privilegio.*

And thus, without any contradiction, it was ever held for law, That the natives of Gascoign and Aquitain, and those other countries which were geographically out of England, were yet, in construction of law, equally denizens and subjects of England with those born here, in regard of one allegiance and protection, wherein they where equally involved. 27 *Ass. Pl.* 48.

Secondly. No allegiance which gains the name of *alta et naturalis Ligeantia*, can by the common law of England be divested, though otherwise it may be by the civil laws; there being no *magis* and *minus* that it is capable of, which the objection would suppose; and the truth is, the resolution of Calvin's case answers all the suppositions of any future contingencies, and positively resolves, that this allegiance cannot possibly be lost by any matter *ex post facto*, no, not by difference of descents and governments, 7 *Li.* 27; and what is agreed to be inherent to a natural-born Englishman, belongs also to a *postnatus, non potest patriam in quo natus est exure, nec Ligeantiæ Debitum ejurare*, 1 Inst. 129.

Thirdly. And for the inconsistencies of allegiances that the objection seems to insinuate, in the case of competition between the kingdoms, Bracton hath met with that supposal long since, *Li. de exceptionibus* 427, speaking of one that is *ad fidem utriusque Regis, si contingat guerram accidere inter Regna*, putting the case of one born in France, and indenized in England, *Remaneat personaliter cum eo cui Ligeantiam fecerit, et feciat servitium debitum ei cum quo non steterit in persona.*

Obj. Though the Earl of Cambridge were a postnatus, yet, as this case is, it makes him not to differ from an alien, because the kingdoms of England and Scotland were at the time of this invasion divided, and there were then several administrations of their powers, from whence a double allegiance is to be considered, *Regis et Regni.*

First, *Ans.* If we look upon the judicial powers of the kingdoms in a legal consideration, even at the time mentioned in the objection, besides the union of kingdoms made by force of 1 *Jac. cap.* 1, we shall find as strong stipulations and engagements by treaties confirmed by parliament and otherwise betwixt the nations, as were possibly to be made, none of which were repealed at the time of this expedition, and so far from that, that the earl himself hath often at the bar professed, that neither his coming nor commission were against the parliament or kingdom of England. How then were the powers of these nations so legally or judicially different?

Secondly. The union of the laws and governments of these nations was a thing desired and endeavoured by some, as may appear by the latter part of the statute of 4 *Jac. cap.* 1, but it was not effected; therefore the distinction of the kingdoms was taken into consideration in Calvin's case, where *Regna* was one of th· *Nomina operativa*, and granted, that though the kingdoms, laws, and nobilities of the nations of England and Scotland were several and distinct, yet the allegiance of all born in either nation after the union was one and the same; and the pleading of that case (which best denotes the law) demonstrates this, that such distinction of the kingdoms was under consideration; for the pleading was, that Calvin was born *extra Ligeantiam Regni Regis Angliæ*, and *infra Ligeantiam Regni Regis Scotiæ;* and the learned chancellor of that time saith in his *Postnati*, that the judgement was, that neither Calvin, nor any other *postnati*, were aliens to the king or kingdom of England.

Thirdly. It is agreed on the other side, that there was always one *Ligeantia Regis;* and therefore even thence I do infer, that there was also one *Ligeantia Regni*, because that allegiance which was due to the king was certainly due to him in his politic capacity, though not to that only, or divided in the subject from his natural capacity; however, it may be said nevertheless, as it is in Calvin's case (by a community of properties) that it was due to the natural capacity also, *viz.* as it ought ever to be accompanied with the politic, thence it was but just in the parliament, notwithstanding the king's personal command and opposition against them, yet to permit the taking of the oath of allegiance, and not to abolish it till after his death, it being *ad Legem Ligatio*, yet the person was so necessary, that without it, it had been ridiculous to administer it in the form it was, in which case, *magis dignum trahit ad se minus*; and hence it was, that capital crimes committed in one king's time might be proceeded against after the death of that king, 3 Edw. III. Fitz. Reattachment 18. and *Bro. Corone* 178. If the king had purchased land to him and his heirs, though the word *successors*, the word of his politic capacity, had not been mentioned, yet he was seised thereof in *jure Coronæ*, 43 Edw. III. 20. And if land had been given to the king and another, and their heirs, they had for the same reason been tenants in common, and not joint tenants, Com. 229, for the same reason: And though many of those persons who have been kings have often oppressed, instead of preserved their subjects, yet still that which Bracton hath said upon the same ground remains true of the regal power, *Non aliud Rex potest quam quod de jure potest*, his office still being *ex officio*, as 2 Li. Coo. Wiseman's case saith, and Fitz. na. bre. 113, out of the Register, to provide for the preservation of his people; and if any other construction should be made, then it must have followed in the king's personal absence, minority, or disability, the kingdom must either have been but weakly, or not at all governed; from all which it may be inferred, that the obligation and allegiance which was owing to the king, did include that which *sano sensu* was the kingdom's also.

It remains now, that somewhat be spoken for the further invalidating of this part of the plea, wherein I shall,

First, prove, That one born in Scotland after the union of the crowns cannot be to any purpose considered as an alien to England.

Secondly, That though the Earl of Cambridge had been born before the union, yet he had not been an alien to England; partly from a national consideration, but more principally from personal consideration, *viz.* First, by reason of his local allegiance both in Scotland and England. Secondly, *Ligeantia acquisita*, and that by the naturalization of his father, or his own denization.

Thirdly, That though he had been an alien, yet, as this case is upon the proofs, he will prove triable for treason by the laws of this kingdom.

Before I speak of any of these, I might touch upon that part which layeth murder to the charge of this earl; it having been fully proved, that several persons by name,

amongst many others, were slain and murdered by the Scottish army; and to make him punishable for this crime, there is no need of denization, it being an offence in itself against the law of God and nations, and no trust requisite to be an ingredient to it as is requisite in treason: Hence we find rape punishable in England, committed by a Scot, 13 Eliz. Dyer 304, and murder done by the Lord Zanchar of same nation, 9 *Li. Coo.* 116, where we find him indicted by the name of Robert Chreighton, Esq.; which, together with the express authority of 11 Eliz. 3 Fitz. bre. 437, are (by the way) sufficient warrants for our charging the prisoner by the name of James Earl of Cambridge, without mentioning his dukedom, as he hath often intimated we should have done.

And if the earl should say, he killed not these persons himself, his council can soon tell him, that is not material, the law being, That if divers persons come to do an unlawful act, and one commit a murder or treason, it is so in all, 1 Mar. Dyer 38. 13 Hen. IV 13 19 Edw. II. Fitz. Cor. 433. But the truth is, I shall not rely upon this, being not willing so high an offence should pass under any other name than that of treason; therefore I pass to those aforementioned considerations, which will evince his crime to be no less than treason.

1. As to the first of these, there being so much said in the argument of Calvin's case, I shall omit the citing of any thing particularly from thence, and select something from the statutes made shortly after the union. It is agreed by all historians, that these two kingdoms were anciently but one, *Divisos orbe Britannos, et subducta Britannia mundo;* thence it is observable, that in the preface of 1 *Jac. cap.* 1. by the access of the King of Scotland to this kingdom, the parliament speaking of the union, correct themselves in these words, or rather a re-uniting of these two nations (though anciently but one;) if so, this re-union amounted to no less (as it were) a national remitter of the ancient union.

For the settlement of this union, commissioners were chosen to compose some differences betwixt the nations, and to consider what was fit and necessary to be done for the commonwealth of both kingdoms, 1 *Jac. cap.* 2. These commissioners consult long about it, and, because they could not perfect it within the time prefixed, an act passeth for longer time, 3 *Jac. cap.* 3.

At length the work is finished by the statute of 4 *Jac. cap.* 1, by which all statutes that express or imply any strangeness of the one nation to the other are repealed; and, moreover, it doth enact and say, That if there had appeared any other statutes of this realm of England, wherein any thing is ordained, enacted, and established, expresly and by name, against the Scottish as enemies, or Scotland as an enemy country to the king of this realm, or the state of the same, we should, for so much of them as concerneth Scottish men or Scotland, have utterly abrogated and annulled the same, seeing all enmity and hostility of former times between the two kingdoms and people is now happily taken away. So the statute. After which it seems as strange, that any born in Scotland, after and during the continuance of that union, should make themselves strangers to England, as if natural-born Englishmen should have made the same allegation.

In the aforesaid statute of 4 *Jac.* 1, there is a clause, That no Scottishman coming into England to prosecute the law against any Englishman offending in Scotland, is to be arrested here, except for treason and murder; and in the latter end of the act, amongst other things, it is enacted, That if any Englishman should commit treason or other crimes in Scotland, and come into England, he should not, upon his apprehension here, be sent into Scotland to have his trial there, but be tried where he is taken; but the statue of 7 *Jac. cap.* 1. which was the year after the resolution in Calvin's case, repealed that clause of 4 *Jac.* 1. last mentioned, as to all offences but treason, leaving the offenders in that kind to be tried in the kingdom where they were apprehended; and though the statute speak only of English, yet the like act was to pass in Scotland, in

case any of that nation committed treason here, else neither was to be binding to the nations.

2. In the next place, somewhat may be said from a national consideration to prove the earl no alien here, though born before the union; not that my purpose is to endeavour the revival of that ancient homage done formerly by that kingdom to this; it is not worth the mentioning, in comparison of that love and those engagements which have been betwixt us; *Gens una summus*, was heretofore said of us, and if it may be, I wish, *Sic simus in ævum*; but because somewhat hath been on the other side cited from the stories of Bruce and Baliol, in the days of Edward I., and for that I find both law and history afford some matter for this argument, I hold it my duty not to be altogether silent in what passed in those times and since: I will not insist upon those several appeals made by Magdolphus and others of the Scottish nation to Edw. I. *contra custodis Scotiæ*, and against the Kings of Scotland themselves, all arguments of allegiance then acknowledged from that kingdom to this.

But to instance in some precedents nearer to this in question, Simon Frysel, in 34 Edw. I. *anno* 1306, a native of Scotland came in an hostile manner from that kingdom to invade this, and being apprehended here, he was condemned as a traytor. The words of Matth. West, 465, concerning him are, That he was *a turri Londinensi per plateas distractus ut proditur.*

In the same year of Edw. I., William Wallis, the commander in chief of the Scottish forces, and a native of that nation also, as the prisoner was, came into this kingdom, and being apprehended, was, saith Walsingham, fol. 61, *Londonias usque ductus et judicialiter condemnatus, trahitur, suspenditur, et ultimo decollatur*, though he pleaded, as our historians tell us, what this earl doth, That he was a subject of Scotland, and not of this kingdom, and therefore ought not to be tried here for treason. In 42 Edw. III. 3. in the Lord Beaumont's case, when it was replied that the party objected against to be an alien was a Scotsman, the plea is no longer insisted upon. A protection, *quia profecturus*, lies not into a country that is within the allegiance and protection of England, 7 Hen. IV. 14; yet we shall find the only reason given wherefore it was granted into Scotland, was, because of the wars that were then betwixt the nations, 7 Edw. IV. 27. And after the ceasing of which wars, it may be collected by the book, a protection would have lain no more thither than it would have lain into Wales or Ireland.

In 13, 14 Elizabeth, Dyer 304, one was arraigned for a rape. At the return of the *venire facias* to try him, he pleaded that he was a Scotsman, and desired a *medietate linguæ*, which manner of trial is granted to aliens by the statutes of 27 and 28 Edw. III.; but by the judgment of the judges of both benches it was denied him, for this reason amongst others, because, saith the book, a Scotsman was never here reputed for an alien, but rather a subject.

Obj. Whereas it hath been said this was because the statutes of 27 and 28 Edw. III. were made when Scotsmen were generally reputed subjects to this kingdom.

Answ. I answer, that the book gives no such reason. Secondly, to affirm this is to suppose the judges, by such a foreign conceit, to go against the express provision of two acts of parliament, and the constant practice in pursuance thereof.

In the same year of 13 Eliz. in the case of the Duke of Norfolk, the evidence of the Bishop of Ross, a Scotsman, was offered against the duke by the council for the commonwealth, which the duke opposed from the judgment of Bracton, That a foreigner's testimony was not in that case to be received; but Cataline, chief justice, though he says nothing to Bracton's opinion touching *exterorum testimonium*, yet he gives the rule of the court, that the testimony was to be received. Camden's Eliz. 214.

After this time, also, the Queen of Scots was tried in this kingdom, though not upon the statute of 25 Edw. III. yet upon the statute of 27 Eliz. cap. 2, then in force:

And though, in the proceedings of that business, commissioners of both nations met, and that the Scots commissioners did protest that though they did join with our commissioners, yet they did thereby make no acknowledgment that they were other than a foreign nation to this; yet the Englishmen protested against that protestation, as we find in the history of that queen.

3. But to pass from this national to a more personal consideration, and from thence (though he were an *antenatus*) to prove the earl liable to punishment for treason against this state, and that by a local allegiance, both in Scotland and England; wherein it must be granted as a principle, and cannot be denied, but that if an alien come into this nation, and there abide, and commit that act which would always be treason in an English subject, it is by the law treason in him during that abode, because he oweth *localem ligeantiam*, and the indictment against him shall say *contra ligeantiæ suæ debitum*, 7 li. Calvin's case. Thus in 36 Eliz. the Portugals here in England join in an act of treason with Dr Lopez, and it was adjudged treason in all. Thus the earl, though he had been born before the union, yet he lived in Scotland after the union, and at the very time of this invasion, whereby he became a subject, at least *locali ligeantiæ*.

So in England, also, not only by his former residence here, which he will say, perhaps, was avoided by his removal hence, but by his late coming in, he became *ligeus* here *locali ligeantiæ*, because he came from a kingdom then, by his own confession, in amity with this. This was the case of Sherley, a Frenchman, 4 Mar. who came from France, then in amity with England, and being taken levying war in an hostile manner, was indicted and executed as a traytor, Dyer, 144, and as the book puts it, 7 li. Calvin's case, if he had had issue, here that issue should have inherited.

4. In the next place, I shall prove the Earl of Cambridge, though he had been an *antenatus*, to be a subject of England *ligeantiæ acquisitæ*, and that by the naturalization of his father, or by his own denization: But first, as to the naturalization of his father.

1. The act of parliament hath been read and proved, whereby the father of this earl, by the name of James Marquis of Hamilton, Earl of Cambridge, in 21 *Jac.* was naturalized, to be to all intents and purposes a subject of this nation, as if he had been here born, with a further clause, that his heirs might inherit and purchase any lands, tenements, &c.; by which act it clearly appears that this earl is naturalized also. For, 1. Though in the case of a denization there may need the word *heirs* to extend it to them, because it goes as it is limited, it may be for life, in tail, or upon condition, 9 Edw. IV. 7., yet it is repugnant to suppose that, in point of a naturalization, because he that is born in England, as by relation this makes him, without any other expressions, conveys the right to his heirs. Hence naturalization is never *temporanea* though *data*, 1 Inst. 129. 2. Here are not wanting words neither that reach to the heirs, if necessary; for the act is, That his heirs may inherit and purchase, &c. And in pursuance hereof it is notorious that this earl hath done both; but we shall find that oftentimes no more goes to express a naturalization than this: No other expression is used to import the privilege of being English to them that are born of English parents beyond sea, but only that they may have and freely bear the inheritance within the same allegiance as other inheritors, 25 Edw. III., *de natis ultra mare*. And in 3 Hen. VI. 55, Hall and his wife brought a writ of dover. The tenant pleaded that the feme was an alien. The demandants reply, that the feme, in the time of Hen. IV., was enabled by act of parliament to purchase lands and tenements, &c., with which reply the defendant's council rested satisfied, as if the replication expressed it sufficiently that she was naturalized, and thereupon demanded view.

Obj. But it hath been objected that this act can have no other effect than if the now earl's father had been born in England; and though he were a native Englishman, yet

having issue, this earl, by a native Scotswoman in Scotland, the issue thereby remains an alien, though his father were naturalized or born in England.

Answ. First, I shall easily grant both that this earl was so born in Scotland, and that the naturalization amounts to no more than if the old earl had been born in England, but do deny the inference drawn from thence, That therefore the now earl must be an alien. For though in former times some controversy hath been touching this question, viz. whether the issue of an Englishman, going out of the kingdom, born of an alien woman, shall be a subject of England or no, yet I take the law to be clear at this day, that such issue is a subject of England.

By the common law, if father and mother, both English, have issue beyond sea, that issue is English, 1 Rich III. 4., the statute of 25 Edw. III. *de natis ultra mare*, being declarative of the common law, 42 Edw. III., cap. 10; and if the reason and practice of law be examined, we shall find it to be the same, where the father only is English, for these reasons:

First, Because at this day any person may go from this kingdom to another without licence, though he be neither nobleman, merchant, or soldier, except some restraint by a *ne exeat regnum*, proclamation, or other act of state, be against him, so it is resolved, 12, 13 Eliz. Dyer. 296: And though all, except persons so qualified, were restrained by 4 Rich. II. cap. 2., yet that statute is repealed by the statute of 4 Jac. cap. 1, made principally in reference to Scotland; therefore, however the law may be as to such as go when prohibited, or who stay beyond sea, when commanded to return, yet as to all others at this day, and always as to noblemen, as the father of this earl was, upon whom no restraint was ever put by common or statute law, certainly the law is otherwise, especially when the removal is to a country in amity, as Scotland was.

Secondly, *partus sequitur semen* by the common law; therefore in 4 Edw. IV. 25. Statham villenage 9, if a free man marry a wife, and have issue, that issue is free; but otherwise, if the man had been villain and the woman free.

Thirdly, The woman alien by the marriage is indenized, and the issue then must needs partake of the privilege; and it appears by 26 Edw. I. rot. Parl. 1, that when Edmund, the brother of Edw. I., who married the Queen of Navarre, died, all the judges resolved she should be endowed; and what though she should not, as in other cases it hath been doubted, yet that hinders not but during coverture she was indenized, and that's enough to indenize the issue. If a wife marry a free man, it is and hath been a doubt whether this be a perpetual infranchisement to the woman after the death of her baron, but it never was doubted but that both herself during coverture, and her issue ever after, were infranchised. Lit. sect. 187. 1 Inst. 136.

And for express authority in the point in hand, besides the ancient authority of Abridg. Ass. 39. tit. bastard. 7, and Bro. Denizen, 21., it was the judgment of all the judges in England, 2 Ca. in the duchy-chamber, betwixt the king and Eaton, usually called Stephen's case, the record whereof is ready to be produced, where Judge Yelverton and Harvey, then judges-assistants to that court, declared it to be their judgments, as also of all the other judges, That the two sons of Stephenson, born beyond sea, upon the body of an alien, were denizens.

Obj. I observed but one book cited for maintenance of the contrary opinion, and that was 26 Hen. VI., where indeed it is 22 Hen. VI. 38.

Answ. Which authority is against, not for, that opinion for which it is cited; for in an action there brought, the defendant pleads that the plaintiff's ancestor in the time of Hen. IV., went beyond sea without licence, and there had issue the plaintiff. Upon this plea, Arderne, the plaintiff's council, demurs; but, saith the book, Prisot, the defendant's council, durst not demur.

Secondly. If the book were as it is supposed, yet it makes nothing against the law

at this day; because by the book it appears that the plaintiff's ancestor went beyond sea in the time of Hen. IV., without licence; which being after Rich. II., there was a restraint upon him, except by licence, or qualified as that statute of Rich. II. requires; which restraint is now abrogated, as is before said; and the inhabitants of England, as is suitable to all islanders, may travel at pleasure, except especially forbidden; and so, whatever the law was then, it's otherwise now, *mutata ratione legis mutatur lex.*

Obj. What if the present earl did himself endeavour, or, as he saith, was advised, notwithstanding the naturalization of his father, to procure himself to be naturalized or indenized.

Answ. Yet that could be but *in majorem cautelam*, as some savings have been inserted into acts of parliament themselves, not for necessity, but for satisfaction of the lay gentlemen, as our books express it, 1 lib. Coo. 24 Plow. Com. 379, upon the statute of 5 Edw. VI., and even in that case of Stephenson, though the judges assistants delivered what was their own opinions, and of the rest of the judges; yet, if making the party a denizen would end the controversy, they did advise it.

Fifthly. Besides this purchase of his fathers, the earl hath himself contributed to his own denization, not so much by inheriting his father's dignity, and purchasing and enjoying himself lands in England, that being rather an evidence of what he formerly was, than making him what he was not before, but by the writ of summons sent to this earl himself, 15 Car. The record whereof hath been read, commanding him, *ex fide et ligentia sua*, to appear in parliament as a peer of this realm; who accordingly did appear, and acted in this parliament, being chosen of several committees in the lords' house, to consider of many things of great concernment, some whereof were for the strength of the nation, as hath been fully proved by the records of the lords house: all which actions are so inconsistent with his being an alien, and would be such a solecism in state, to admit an alien to be invested amongst others with a judicial power, that rather than it should be admitted, all this laid together will, I conceive, amount to at least a denization.

I will not say, that the granting of every office, or the being employed in any transaction which concerns the law or government of the kingdom, will make an alien a denizen, the books of 9 Edw, IV. 1 and 14 Hen. IV. 19. forbid me to say; but it is another thing to have a judicial power in parliament, and to sit by virtue of such summons in the parliament of England. The Lord de la War was disabled to sit in the house of peers during his life; but he dying, a writ of summons coming to his son, he was by virtue thereof enabled, not only to sit, but to enjoy that place which his ancestors formerly had done, 11 lib. Coo. 1. and in 39 Edw. III. 29. Umfrail, Earl of Angos, ought to be named Earl in the writ against him; because by that name he was summoned to the parliament, and for not naming him so, the writ abated: A denization is a kind of a national manumission. Now, as there is in law an express infranchisement of a villain, and an infranchisement in law, Lit. sect. 205, so it may be said of denizations. And amongst other manumissions by act in law, I find in Britton, fol. 79 and 82, if a villain was made knight, this did make him free *ratione dignitatis*, and did not make the conferring of that dignity to be a void act, parallel whereunto is the case in hand.

Sixthly. The last thing I shall insist upon, touching this second part of the plea, is to make it appear, that though the earl had been born before the union, and an alien, that yet there are other circumstances in this case yet remaining, which will clearly make this act of his to amount to no less than treason, viz. his coming from a kingdom in amity with this, and his marching in hither with English traytors: That he marched in and held correspondency with Sir Marmaduke Langdale and his son, and with Sir Thomas Glenham, and divers others, hath been fully proved; and that that kingdom was then in amity with this, besides the national treaties and engagements unrepealed,

it appears as well by the earl's own confessions at the bar, as by the words of the Scotish declaration made upon this expedition, read at the earl's own request; which, whatever it be, doth yet conclude this earl and all his party from alledging the contrary for their advantage, it having been often reiterated by him; and also therein said, that this expedition was neither against the parliament nor people of England; besides, that it is no slight matter to make the nations in amity to become open enemies in a legal construction, which we are now upon, as appears by the book of 19 Edw. IV. 6.

Now that these circumstances will make this act reach to treason appears by these authorities of law. In the days of Queen Mary, France and England were in amity; Sherley, a French native, during that amity, joins himself with some English traytors; Sherley is apprehended and indicted as a traytor, *contra ligeantiæ suæ debitum*, 4 Mar. Dyer. 144, which is confirmed for good law likewise, 7 lib. in Calvin's case, by all the judges, with which agrees Brook. Treason. 32, and Crompton's Jurisdiction of Courts, 72, and Mr Justice Dallison's Reports, 3, 4 Mar. All which authorities agree in this difference, that if alien enemies join with English rebels, and be apprehended, the aliens shall be tried by martial law, or ransomed; but if alien armies so join, it is treason in all; and 'tis observable, that the case is put cautelously in Hen. IV. and so abridged by Brook. Treason. 1. that where alien enemies join with English, the aliens shall be tried by martial law, and the English as traytors.

Obj. The objection hath been made, and so far it seems the law is agreed, that if aliens fight under the banner of English, that this may be treason in all, but not if the English fight under the command of aliens, which is alledged to be the case in hand.

Answ. First, I cannot safely admit that which the objection takes for granted, that the English were the auxiliaries, and the Scots the principals in this act, when I find in the proof offered by the earl himself, that he came in by the invitation of their friends in England; and when I remember what was designed and produced in the south of England before and at the same time with this expedition. 2. But admit it to be otherwise, yet if this difference were material, then it should follow, that if alien enemies did fight under an English command, it should be treason in all, but it is not so.

3. The law makes no such difference, nay, the very objection seems to be made and answered, 4 Mar. Dyer. 144. for the book saith, that though Shirley were an alien, yet *hoc non refert tempore pacis inter Anglos et Gallos*, the weight is laid upon *tempus pacis* only.

4. The true reason of the law in one case is the same in both, which I conceive to be from the detestation of conspiring with an inward secret enemy, and from the trust the law reposeth in such as are of a country in amity. There is no treason, but where there is a trust; hence anciently treason, in its genuine and original acceptation, was only and properly amongst allies and friends, who mutually did repose confidence in each other, as may be seen in the Mirror, f. 30, and 201. And that a greater trust was placed in aliens armies than in others, appears in that our law allows not only traffic and commerce with them, but also allows them to be to some purposes denizens, namely, as to the bringing personal actions; which, if they bring, it shall not be allowed to plead, that the plaintiffs are aliens, 19 Edw. IV. 6, and 6 Henry VIII. Dy. 2.

Obj. But the earl hath objected, that upon the Scotish forces coming in and under his command, they of that nation were, by the House of Commons, voted enemies, and those of this kingdom, who adhered to them, traytors.

Answ. 1. The words of that vote seem to be exclusive of the prisoner, mentioning only those under his command. 2. Though every enemy, in the legal signification of

the word, be not a traytor, yet every traytor is an enemy; and therefore if now he be proved a traytor, he may be well enough an enemy within that vote. The present charge against him is a charge of high treason; yet the conclusion doth not improperly pray judgment against him, both as a traytor and public enemy. 3. Take the words in the strictest sense, and the vote only names those of the Scotish nation enemies, but those of this kingdom traytors: Now the labour hath been, and I suppose it clear, that the earl himself is of this nation, and so a traytor by that vote, from which he would derive an argument for himself. 4. If yet any other construction should be made, *Leges posteriores priores abrogant*, he is, by the act whereby this court now sits, ordered to be tried for treason in the same kind as the rest, who are now under question; and if his fact be treason, it will easily follow by an argument of *a denominatis* that he is a traytor.

3. The third part of the Earl of Cambridge's plea is, that he is a prisoner of war, and rendred upon articles, and that those capitulations were made before his rendition with Major-General Lambert's commissioners.

That there were articles, and he a prisoner of war, I shall agree to be proved, as also that one of those articles was, that he should have quarter, and have his life assured; and it must be agreed on the other hand, that the Lord Gray, who had equal authority, protested from the first against that treaty, and after took him prisoner before any assent thereunto: But whether by the proof the earl was not a prisoner before the signing the articles, and whether before the articles were to have any effect, the same were not to be ratified by the commanders in chief, is submitted to the judgment upon the evidence. That, therefore, I may do the prisoner right in this point, which he seems to make his strongest assylum, I shall admit that there were such articles, and wave the relying upon the other circumstances, which may not seem so clear in proof.

Nevertheless I shall briefly shew my reasons, wherefore I apprehend no security from the stroke of civil justice belongs to the prisoner by this refuge; for as to the military, is not the contention.

First. If these articles be of avail against the civil power of the state, they must in effect amount to a pardon or discharge of treason (for this point doth take the last point by admittance, *viz.* that the fact is treason.) Now, though the military power may exempt a prisoner of war from the execution of the sword, and of their own power, yet it is not in their power, nor do they assume, or ever challenged such a power, as to exempt delinquents and traytors from the execution of the magistrate, for the bringing of whom to condign punishment the soldier was at first armed, and the war principally begun; and if it should be in the power of one soldier, it would *pari ratione* be in the power of all, as well to spare all as one; and if to grant a pardon of life, then likewise for their livelihoods, and so the end of the war, and the satisfaction promised would be in the power of the servants of the state to frustrate; not that the articles have no effect, for he was by them freed from the immediate execution of the sword.

Secondly. The pardoning of treason is a power so inseparable to the supreme power, that by the authority of the law it is not communicable to any other. In 5 Edw. IV. 123, 'tis made a great doubt, and so said to be 1 Bro. Treason. 22. Mercy and justice being not transferable, 7 lib. Coo. in the case of penal statutes, 9 Edw. IV. 2. and 20 Hen. VII. 6. 'Tis true indeed, there was a time when some had gotten this power into their hands; but by the statute of 27 Hen. VIII. cap. 24, this power was resumed into the supreme power, and there it hath since lodged; and however we dispute not what the parliament may do by express words, as they have done in many acts and tenders of indemnity, yet without such expressions, not by an implicit power, nor *ex officio*, can any justly assume it.

Thirdly. By the rules of law, no officer or minister of state can give away or dispense with the interest of the commonwealth: If a customer, who is an officer of state, take a bond in his own name for the importation of bullion, he cannot discharge this bond, 4 Edw. IV. 4. and 12. The king was the supreme officer of the commonwealth; yet if an indictment of nusance had been preferred against one in his name, it had not been in his power to have discharged this offence, 3 Edw. III. Fitz. Ass. 445, nor could he for the same reason by any *non obstante* dispense with the penalty of any statute which did concern the interest of the commonwealth, 12 Jac. Sir Arthur Ingram's case, and H. 36. Eli. betwixt Hamond and Griffith, in an information upon a penal statute, the informer died, yet the king's attorney might proceed. The difference I apprehend to be, as to the point in hand, betwixt one triable by martial law meerly, as an alien enemy is, for such a one being triable by the sword, if taken, may be discharged by that power, though in that case I totally exclude not the legislative power; but for a traytor, originally and legally, only triable by the municipal laws of a state, to be absolutely discharged by a subordinate power, without the concurrence or confirmation of the magistrate, will ever be strange to me, till I find that rule overthrown of *nil dat quod habet*, which can never be in a just and moral sense.

Fourthly. However the words sound, the intention and true meaning of the parties was not to free those that were concerned from justice, if the state required it; and intentions are the best rules for construction in these cases: That it was intended only in this treaty to free the prisoner from the present execution of the sword by the martial law, and no otherwise, hath been sworn by two of those gentlemen that were commissioners under Major-General Lambert, who have sworn their own intentions. Words, saith Bracton, are but *vestimenta rerum*, as the body and outward form; the true meaning and intention of parties is the life and soul of every contract. As for *sensus literalis* it hath been (I have observed) *via regia;* but it hath not proved unto that side *via tuta:* However words sound, the exposition must be *secundum subjectam materiam.* In 41 Edw. III. 6. if one having divers faculties, hath an annuity granted to him *pro concilio impenso*, the words are general, but it shall be construed for counsel in that art which was intended: And, as Brudnel saith, in 14 Hen. VIII. 2. contracts shall be expounded according to the intents of those that did contract. Cicero saith, speaking *de justitia*, as a judge, not as an advocate, fol. 24. to cavil with words against the mind of the parties *est calumnia quædam et malitiosa juris interpretatio;* in which place he puts a case upon a treaty, as ours is, of one who had made a truce for one hundred and thirty days with his enemy, and taking advantage of the letter, fell upon his enemy in the night, alledging the truce was only for days, which the orator derides as mere injustice, and no otherwise may the literal construction contended for be in the present case, except the letter must be observed, or not observed, as it proves advantageous or disadvantageous to the prisoner; besides, 'tis usual in law, that by averments the intentions of parties take place where the letter would not so decide the question, as 5 lib. Coo. 68. and 21 Rich. II. Fitz. devis. 27. Nor do I see how, in the penning those articles, any other expressions could well have been, if provision had been made, that the prisoner should have been exempted from the power of civil justice, that had been void; and if it had been expressed, that nothing was by those articles intended to exempt him from civil justice, that had also implied a power in them, if they had seen cause, to have given an absolute discharge from the magistrate, which had been equally, by construction, derogatory to the civil power.

Fifthly. If the earl had ever been *de facto* pardoned, yet he may seem to have lost the benefit thereof by his escape made after a special promise to the governor, with whom he was prisoner.[1] The civil law, as Fortescue observes, cap. 46. *libertinum in-*

[1] Burnet gives the following account of his attempt to escape from Windsor :—
" The news of that murder (Charles's execution) sunk the duke's thoughts into a deep sorrow, which he cai-

gratum in pristinam redigit servitutem; and our law saith, if one had committed a capital crime, and being pardoned after, do but break the peace, he forfeits the benefit of the pardon, 3 Hen. VII. 7. as Bartue did the benefit of his licence to travel, by his resort to the fugitives, 2 Eliz. Dy. 176. And I conceive no difference whether the condition be expressed or implied, which I infer not to make the escape treason, being not so charged, and the statutes of 2 Hen. VI. and 14 Eliz. being expired, concerning that, but only for this purpose it is enforced, that he who rendred himself up a prisoner of war, and had for that consideration quarter granted him, and yet after breaks that which was on his part to be performed, hath thereby deprived himself of that privilege which otherwise he might have enjoyed.

Object. If now the prisoner shall be questioned for his life, who by the rendition of himself had quarter given him for it, how is the consideration made good which did induce him to surrender; besides, there if he had died (as the earl himself said) he had preserved his estate, and avoided the consequence of attainder?

Answ. 'Tis strange that it should be thought no privilege to have so much time to die, in case there were certainty of it, above a death by a military execution, which usually is sudden, and *sine strepitu judicii.* 2. Is it no privilege above an immediate death by the sword to have a fair judicial proceeding by a charge against him, putting in his own plea thereunto, the matter of fact by witnesses and other evidence proved on both sides, and counsel assigned him of his own choice to argue his cause in point of law, and himself to be heard as much as he could speak in his own defence? 3. And the danger seems by this manner of trial not greater than before; for he that dies a traytor *in furore belli,* because himself is the cause why formalities of legal proceedings against him cannot be observed, by the ancient law forfeited his estate, and remained attainted notwithstanding, Plowd. Com. 262. Fitz. Dower. 106. where, in a writ of Dower, the demandant was barred, for that her husband went into Scotland, and joining himself with the enemies, died in enmity.

Object. As to the examples of Joshua with the Gibeonites, and of the prophet Elisha forbidding the King of Israel to smite those whom he had taken captive with his sword and bow.

Answer. I answer, as to the first, viz. that of Joshua with the Gibeonites; God forbid but that as that, so all other leagues and treaties should be kept so far as to bind that power that made them, and who can rationally expect more? Now Joshua was the successor of Moses, and a magistrate as well as commander; besides, 'tis said the princes of the congregation swore unto them, and had these circumstances been incident to this case, the dispute had been ended.

ried with him to his grave. He well saw his own danger, knowing that those who had broken all the bonds of loyalty and duty were not to tie themselves to the faith of a capitulation or articles, though granted by a person impowered by them. He therefore meditated an escape that night from Windsor. He concerted the means with his trusty servant Mr Cole, who was allowed to go to London and return, which he did frequently. The keeper having been gained over, Cole was directed to send two horses and a faithful servant to Windsor. The duke was not to come to London till seven in the evening, when Cole was directed to meet and conduct him to a safe house in the city. The duke accordingly made his escape, and found the horses ready; but unfortunately proceeded to Southwark, thinking to have got to the house of one Owens, who was privy to the affair. In the streets he met with a party of horse and foot, who were searching for Sir Lewis Dives, and another prisoner, who had escaped. They found the duke at a door where he had long knocked, and there took and examined him. He told a plausible story, and they would not have disturbed him, but they observed that he took a large bundle of papers to light a tobacco pipe. This raised their suspicions, and he was committed to prison at St James's. The same night an order came to Windsor to put him in close confinement; but the captain of the guard hearing that he was in bed, delayed the execution of the order till morning, when his escape was discovered. Mr Cole was advised to secrete himself, but he declared that he would rather die than leave his master at such a time, whereupon the duke exclaimed, 'It was Gods will it should be thus.' Cole was taken prisoner, and examined by Sir Haidress Waller, who could draw nothing from him. He was then imprisoned; but when the duke was tried he procured his liberty, averring some particulars in his plea."—BURNET's *Memoires of the Duke of Hamilton, Lond.* 1677, *p.* 384.

1. As to the other instance, the men of Syria had a personal quarrel against Elisha, and therefore none being interested but the prophet, it might well become his piety to be their intercessor. 2. For any thing appears, the prophet only speaks against their being smitten with the sword of war, which, if it had been drawn in cold blood, might have been the blood of war in peace, but not against the sword of civil justice. 3. These enemies were taken in the midst of Samaria *in cruento prælio*, and therefore bread and water might well be set before them, that they might eat and go to their masters; but, there hath been in this case much blood drawn and mischief done; for the avenging and satisfaction whereof justice cries to them that bear not the sword in vain.

And now, my lord, though I might have demanded judgment for want of the prisoner's making good his own plea, which he ought to have done before I had said any thing to the contrary, the plea of being an alien lying on his part to prove that pleads it, 9 Edw. IV. 12. and Dy. 300. And the plea of a pardon being a confession of the fact, if not made out, proves fatal and final also to the party, Stanf. cor. 150. Yet nevertheless, for that the prisoner hath not been confined herein to the strict formalities of the law, I have also, on the behalf of the commonwealth, taken the privilege of speaking thus much for asserting the invalidity of his plea; and therefore upon the whole matter, having now said what hath prevailed with my judgment to offer in this case, I humbly submit the same to the judgment and consideration of this honourable court.

The true Portraiture of the Kings of England; drawn from their Titles, Successions, Raigns, and Ends; or, a short and exact Historical Description of every King, with the Right they have had to the Crown, and the manner of their wearing of it, especially from William the Conqueror. Wherein is demonstrated, that there hath been no direct Succession in the Line to create an Hereditary Right, for Six or Seven Hundred Yeers; faithfully collected out of our best Histories, and humbly presented to the Parliament of England. By an impartial Friend to Justice and Truth.

Psal. 146. 3. Put not your trust in Princes.

Psal. 62. 9. Men of high degree are a lye; to be laid in the ballance, they are altogether lighter then vanitie.

Nihil est imperium ut sapientes definiunt, nisi cura salutis alienæ. Ammianus, lib. 39.

London, Printed by R. W. for Francis Tyton, at the Three Daggers, in Fleet-street, neer the Inner Temple gate, 1650.

The indefatigable Anthony Wood gives the following account of the author of this republican tract, which, however, he does not enumerate among his writings:—

"Henry Parker, the fourth son of Sir Nicholas Parker of Ratton, in the parish of Willington, in Sussex, Knt. by Katherine his wife, daughter of John Temple of Stow, in Bucks, Esq., was born in Sussex (at Ratton, I think) became a commoner of S. Edmund's hall in the latter end of 1621, aged 17 years or thereabouts, took the degrees in arts, that of master being completed in 1628, he being then a member of Lincoln's Inn, and about that time a barrester. When the grand

rebellion began, he sided with the presbyterians, and became secretary to the army under the Earl of Essex, an. 1642, in which office he continued some years to his enrichment, and was a recruiter in the Long Parliament for a borough in Sussex. Afterwards he turned and became an independent, went beyond the seas, and lived for some time at Hamborough. At length, when Oliver Cromwell came to be general, he was called thence to be a brewer's clerk, that is, to be secretary to the said Cromwell, with whom he was in great esteem. He hath written,

A Discourse concerning Puritans, tending to a Vindication of those who unjustly suffer by the Mistake, Abuse, and Misapplication of that Name.—Lond. 1641, in 9 sheets in qu. which is the second edition, much enlarged.

Observations upon some of his Majesty's late Answers and Expresses. Lond. 1642, qu. twice printed. Answered by Dudley Digges, of Allsouls College, as also by one John Jones, a Gentleman of the Innes of Court, a Prisoner for his Loyalty at Southampton, July, 1643, whose Book is entitled, An Examination of the Observations upon his Majesty's Answers, wherein the Absurdities of the Observator's Positions and Inferences are discovered—1643, qu. in 3 sheets and a half.

Of a Free Trade: a Discourse seriously recommending to our Nation the wonderful Benefits of Trade, &c.—Lond. 1648, in 5 sh. and a qu.

Answer to a poysonous, seditious Paper of David Jenkins.—Lond. 1647, qu.

The Scots Holy War: Or, the Mischief of the Covenant to Great Britain.—Lond. 1657. qu.

He is also supposed to be author of a Political Catechism: Or Certain Questions concerning the Government of this Land.—Lond. 1643. qu. Answered in his Majesty's own Words: As also of *Jus Populi*: Or, a Discourse wherein clear Satisfaction is given, as well concerning the Rights of Subjects, as the Right of Princes, &c.—Lond. 1644, qu. nine sh. and a half: And also of other pamphlets which have the letters H. P. put to them. This person, who was a man of dangerous and antimonarchical principles, died distracted in the time of Oliver L. Protector, as I have been informed by Fab. Phillips of the Inner-Temple, Esq."—Wood's *Athenæ*, *II.* 222.

To the Reader.

Reader,

In the study of politicks, the more confident we are commonly the less proficient we are; for there is no other study wherein the passions of men do more impetuously contravene, and overturn right reason. Men born in popular states think themselves bound to abhor all kings, as being *de genere bestiarum rapacium*: So Rome itself pronounced from the mouth of Cato the censor. Others, on the contrary, born under monarchs, speak as odiously of democracies, and make this reply to Cato, That even Rome herself, when she plundred a third part of the world, and graced her own captains with the pompous title of Africanus, Asiaticus, Achaicus, &c. was as ravenous a beast as any other. See what strong byasses wise men have and obey. The question is not, whether this or that form be free from oppression and injustice or not; we know well all forms have their peculiar advantages and disadvantages; and that at some times they all transgress their own rules and interests as it were by accident, and not out of misconstitution: The question is, whether the one constitution or the other be more free, ἐπὶ τὸ πολύ, from oppression and injustice? Now for solution of this, greater light shines and breaks in upon us from demonstration and sensual proof then from syllogisms and logical inductions. Reading assures us, that Rome was not so just to other nations, nor so constant to the interest of her own citizens, when she was under kings and emperors, as she was when she chose her own consuls and limited magistrates. 'Tis as apparent also at this day, that the people of Venice, the German Hans-towns, Switzerland, the United Provinces, &c. do more flourish and truly enjoy the true benefits of liberty, than the French, Turkish, or any royalists whatsoever. 'Tis further as visible by the publike banks of treasure kept in democracies, and the strange splendor which traffick brings to them beyond monarchies, that faith is not kept so sacred and inviolable where one

raigns, as where majesty and supream power remains vested in the people; and most sure it is, the sanctity and untemerated chastity of publike faith is the best and firmest basis of all government. To dispute these things, is to undervalue the report of our own senses; and to deny our own senses, is to deny ourselves to be men. The enemies of our present government upbraide this our popular model, the rather, because it exasperates all our neighbours against us; whereas this is a great argument for us, that our neighbours are troubled at the ejection of monarchy. For neighbours are more apt to envie then pitty: and the condition of him that is envied is far better then his that is pitied. The main advantage that commends hereditary monarchy, is the unity of it, for that it is not so liable to civil broils and commotions as other temperaments where the magistrate is elective: Yet, reader, if thou wilt strip thyself of thy passions and prejudices, and peruse this treatise, thou shalt see that even hereditary monarchy itself is far from being a soveraign, a remedy against civil breaches and divisions. The author of this book is unknown to me, and the book itself came casually to my hands, but I have been induced to publish it because it invites thee not to precepts, but precedents, not to disputable, but to visible politicks. I need say no more; by the work rather then report judge of the author, and by experiment rather then logick, judge of the work.

HENRY PARKER.

The true Portraiture of the Kings of England, drawn from their Titles, Successions, Reigns, and Ends, &c.

To treat of the nature and difference of governments, the distinction and preheminence of monarchy or aristocracie, with the other kinds and forms, which have, according to the temper of the people and the necessity of Providence, had their course in the world, will be useless in this discourse, which is calculated onely for this nation; and to describe not so much the government as the persons who have ruled among us, and is onely suited to monarchy as it hath had the sway of the English throne; a discourse not so pleasing as profitable. We are loth to have our old soars launced, or to think of change, though it be of misery; the temper of this nation being apt to be pleased with any thing that is stately and costly, though never so dangerous and miserable; yet something must be said in generall, to prepare the way for the particulars of this treatise, which is not intended as controversall, or definitive of the nature of things, but meerly practical and demonstrative, fit for every eye that means not to shut himself up in blindness and darkness.

As the foundation and originall of government is confest to be of equall antiquity with the generation and multiplication of mankind, so doubtless the just and methodicall use and due management of it is as necessary to the well-being of men, as the exact proportions and orderly motions of the heavens are to the preservation of the globes; and certainly without it the rationall world would be more miserable then the materiall without sun, moon, and stars, with all cœlestiall influences, which as they do beautifie and bespangle the world, so they do preserve it from returning to its first chaos and rude mass of matter; nothing being more contrary to that unity and harmony which the God of nature hath moulded and disposed all things at first in, then disorder and confusion, in which, as there is nothing of a deity to be discerned, so nothing of peace or happiness can possibly be found.

And, notwithstanding all this, the world hath scarce known what the natural sweetness and true benefits of government are, but only as comparative, and rather as opposite to anarchy, then as advancing really and effectually the just liberties and freedoms of societies, or propagating the commonwealth of mankind; for what through the ig-

norance and sloath of the people, and the pride and ambition of governors, the whole order and end of government hath been inverted and subverted upon all occasions, and that which was made for the good of the whole, hath been so contracted and circumscribed in one person, that the great and soveraign use and end of it by practise and custom hath been rather to set up the pomp and state of one man and his family, then to promote or propagate the profit and happiness of the universe, and whereas of right to its constitution, it should have a free election as its originall, and common good for its end, and just and equall laws for its rule; it hath had usurpation for its principle, and tyranny and bondage for its medium and end. As to this day we may see in the greatest part of the world, where all the liberties of millions of men of all sorts of conditions and ranks are buryed in the glory and splendor of one family; through which narrow channels all honor and justice, all law and reason, are to run up and down the world.

And whereas the goodness and beauty of government consists in the harmonious temperature of power and obedience, of authority and liberty, it hath been quite otherwise inverted by practise, and made apparent to lie in the majestie and greatness of the monarch, and the absolute subjection and servitude of the people, and the excellency and sweetness of it rather to be seen in the presence-chamber, and the magnificence and grandeur of the court, then in the courts of justice, and the rich and flourishing estate of the kingdom, nothing being accounted more politicall and glorious then to have the prince high and the subjects beggars; and yet this ceremoniall way of government hath took most place in the world, and got almost divine adoration, and hath thrust out all other forms of government, equally sacred with it self, and most proportionable to the nature and benefits of societies, and the fee-simple of all the liberties of the people (which are as their bloud and spirits in their veins) sold to maintain its state.

Besides many causes and grounds of this degeneration (whereby so much misery hath overflowed the nations of the world) I find two, which at present are principally to be mentioned; the first is the neglect of a right sence, and the often inculcating the originall and end of government; and the next a lineal succession or continuation of government, by a natural and supposed heirship: for want of the first, neither the people know their own rights or how to maintain them, or the governor his use and end, nor how to keep himself within the just bounds and limits of his creation; for what between the stupidity and ignorance of the people in not knowing their primitive priviledges, that they are the originall and end of government, and the pride and ambition of men when once they have got power, forget both how they came by it and to what end they are distinguished from other men, government comes both to be usurped and tyrannicall. Did the people but know that their choice and election is the foundation of just authority, and that none can rule over them but whom they appoint, they would not then be drawn into controversies and debates, whether it be treason in them to cast off a bad governour, who have the only power of choosing a good one; and, on the other side, if kings and princes (for to reduce all to them who have been most guilty of the abuse of government) had but the continuall sence of the root from whence they sprung, and the duties annexed to their offices, they could not look on themselves as rulers, but tyrants, when they acted for their own private prerogative, in distinction from and contrarie to the liberties and freedoms of the people; but these considerations have been by time and prescription worn out of the mind and memories of both, partly through continual insinuations of court maxims, and the spirit of bondage in the people; and by force and usurpation in the magistrate, whereby it hath gone a long while for currant, that the people have no power nor the prince no account to give but to God, from whom they challenge an immediate title, as if kings and princes, all their names and successions, were let down from heaven in the same sheet that the beasts were in Peters vision, and had not their root in the earth as all other magistrates besides. We have had much

ado of late, but to beat off from these royal notions both by pens and swords, and yet still they have too strong a hold in most mens hearts, though to their own undoing.

Whereas all men are equally born free, and naturaliz'd into all the priviledges of freedom and just liberty, no man can obtain a speciall power over any but either *ex pacto aut scelere*, either by willing agreement and consent, which is the right and just way of title and most naturall, or by conquest and usurpation, which is most exotick and unjust; for the originall of kingly power in the scripture, we all know it came in as an effect of the wantonness and discontents of the Israelites, against that speciall way of government God himself had set over them: And view the character God gives to them of that government, and not a blessing he gives them with it, for its rise among the heathens and nations which knew not God, (among whom that government most prevail'd,) it was certainly first good, and grounded on the exorbitancies and excess of other magistrates, and a high opinion of the justice and vertue of some particular persons, as *Cicero lib Offic.* 2. excellently expresseth it: *Mihi quidem non apud Medos solum (ut ait Herodotus) sed etiam apud majores nostros, servandæ justiciæ causa videntur olim bene morati Reges constituti: nam cum premeretur initio multitudo ab iis qui majores opes habebant, ad unum aliquem confugiebant virtute præstantem.* As if taking it for granted, that among all nations that preservation and execution of justice, with injoyning of vertue, was the first ground of the constitution of kings; but they having got by their own goodness chief power and authority, use that favour they had gained from their own deserts to advance their own family; and having got in the affections of the people through the sence of their own present worth, what by power and force, and what by policy and craft, got the same power entailed on their heirs, and so by custom have made succession the onely right, or at least the most just to crowns and scepters.

A principle which hath more hindred the advance of government, and run it on more hazards and mischiefs, then any other, where, by a fatall custom, people must be irreparably content with what they can finde, and, reducing all to a blinde fate and fortune, be he good or prove bad, *talis, qualis*, give up both their own wills and liberties to such a succession, not only by a natural necessity, but a divine institution. How the world came to be so blinded as thus to give away their rights and liberties, and morgage their understandings and freedom as bankrupts do their lands, is not to be determined, but by supposal of a judgement of God, and an over-reach of power and force, or by an *ignis fatuus* of policie and subtilty.

For this natural and hereditary succession (which is now adored as the grand title) if truly considered, is nothing else but a continuation of conquest, or a surprisall by the good nature of the people, when they have been either low and in fear, and taking advantage of their high esteem of some eminent person who hath been more then ordinary instrumentall to them, have got the people to convey the same honor to their posterity after them; the peoples consent being thus ravished from them, its made a law, both civil and divine, to after generations, but the world is now, or should be, grown wise. Let us consider the nature and use of this succession, both in general and particular, especially as it hath been acted in England.

Among all the catalogue of vanities which Solomon reckons up in his sacred retractations, there is none he puts such a character on as for a man to spend his time and strength in getting of riches, and knows not who shall succeed him in the injoyment of the profit and good of his labour, or whether he may be a wise man or a fool; but what a misery, and worse than vanity is this, that the supream power of government (in the right execution of which all the concernments of millions of men are interested) should be intailed on one man, (though never so deserving in his own person) and the heirs of his body, be he good or bad, a wise man, or very nigh a fool, and so all their happiness depend on hap and hazard from generation to generation.

It cannot be rationally or spiritually supposed, that any man should be born a magistrate or governor, especially not successively; when the best men and most choise spirits, who have had the highest eminencies of vertue and best improvement of education and natural genius, are hardly fit for so great a work. If kings have such a *vis formativa* in their loyns, as to beget kings in the likeness of their office, as children in the image of their natures, it must be necessarily supposed, that they must generate all these royal qualifications together with them, and by the same naturall necessity transfer all their princely endowments to them also.

Whereas I had almost affirmed it (and I hope no man can account it either heresie or treason) that God himself cannot intail, on any particular line of mankinde, the power and authority of government, out of his wisdom and love to their happiness (without he meant to do it in judgement and plague to the world) and not give them suitable and successive qualifications also, fit for that emploiment: It being Gods use (according to his wisdom and righteousness) neither ordinarily nor extraordinarily to call out persons to any place, but he anoints them with proportionable gifts to it.

And yet the poor people (whom God hath naturally made free, and to make use of their own understanding and affections for their own good) are by this succession, bound up from the improvement either of soul or body, fain to be content with what they can get for present, and to shift it out from age to age (with the loss of all opportunities of choice) only with what corrupt nature brings them forth, which oftentimes travels sorely in pain with the curse of the fathers who begat these governors. Hence also it comes to pass, that oftentimes children are made kings, and though they are uncapable at present for the actuall exercise of that office, yet are proclaimed as having the right and title, and all things acted in their name, and the whole commonwealth, it may be of many nations, must wait for his capacity with fear and hope, which capacity is also at best to be judged by his years, rather then fitness or qualification for so high a trust; and, in the mean while, the kingdom must be governed by some favorites of the last king, or some next kinsman to this; and while the king is thus in pupilage, we may well ask, Who governs the kingdom? And yet oftentimes it hath faln out, that their government hath been better ordered in their nonage by others, then in their own by themselves, as appears especially in the raign of Henry the Third and Henry the Sixth, Kings of England; the first being but nine years old when his father died, the latter but nine moneths; who, while they were yong, and under the protection of certain wise and sober men, the laws were administred uprightly and with much justice; but when they themselves came to the years of kingship, and prerogative, so royalled, that both laws and liberties were soon altered and abolished, as anon the reader shall have a more exact account: And how sad is it, that when government may be advanced as well, if not better, by others in their minority, without their presence or influence, the world must be at such vast charges for a title, and to maintain it ere they can use it; and which is worst, that when they come to exercise it themselves, should make their title the ground of their tyranny. But if it so happen (for its a meer chance) that the next heir prove somewhat more then ordinary capable, yet what the next may prove who knows? If he be an infant, (as it many times falls out) then there must be patient and hopefull waitings, to see what he will be when grown up; untill that there can be no further progress made in the alteration or reformation of affairs, though of never so great and present concernment; and when he comes to these years which custom pronounceth him capable, how unreasonable is it, that nothing can hinder or exclude him from his authority, but that he is incapable of being beg'd for a fool, it being enough, if he can know his own name, and be able to write himself *Rex*, though he knows little what belongs to the office or relation of a king?

If he be one of riper years and stature on which this succession falls, then must all the observation of his nature, and the ominous and more then astrological aspects of his

constitution and education be forgotten; and, although silenced in his pretended title, and a full complyance looked after, though opprest with never so many fears and secret wishes of a more hopefull governour; yea, and though he hath been never so active against the liberties of the people when but a prince, and given demonstrations what a governor they may expect, yet his succession must be his qualification and indemnity, and his title his vertue.

On this ground also it comes to pass, that oftentimes women come to hold the rains of government, and to steer at the helm, as wel as men; for if there be any defect of the male line, the female succeeds; and that feeble and weaker sex, whom God and nature have ordained to be onely particular helps and good subjects, (only to keep up the name of a family) must be invested with the highest authority over the choisest and most select spirits of many nations, and all further thoughts of bettering the state of things utterly extinguish'd by a female pretence.

And which is most desperate by this succession, (and its plea of the only and absolute right) the fundamental liberties of the people are not onely insensibly undermined, but absolutely rooted up, and that birth-right priviledge of the people, their election and choice, then which they have nothing more naturall, and which is far more hereditary to them and theirs, then by all the laws of God, nature, and reason, crowns can be to kings and their heirs, is quite extinguished; for pass by the first king, (who, it may be, as with us it hath been, came in by conquest) you must go back in some kingdoms five hundred, in others a thousand years, ere you can but recover the clear notion of a free election, (wherein the peoples power and priviledge is alone and peculiarly seen,) and yet that so faintly and hardly extorted from them, as great loans of money from a cruel miser, without use or advantage; and though election must be acknowledged at last the first just ground of government, yet custom in successions soon wears out its right, and transfers it on the next bloud; and though in England it appears by the coronation oath, that there is even in succession a kind of election, yet its so limited in the line, that its as good as nothing, and so weak and implicitely manifested, that its but a meer customary ceremony, which always is pursued by the natural title, and onely used to deceive the people, and as a step to the further confirmation of a more fundamental and sure right; and its easie to demonstrate it, for our kings soon forget it ere they come from Westminster to Whitehall, or from the chair of inauguration to the presence chamber. In a word, what gives all this ground of such an inevitable and successively insensible incroachment on the laws and liberties of nations, but this lineall title, whereby the son without remedy goes on where the father left off, and by a divine pretence seiseth on what by nature is due to the meanest subject as to himself? And what makes the present kings so daring and venturous to raise their own prerogative, but this, that they know there can be no alienation of the crown from his heirs, and that they may make it better (that is, more tyrannicall,) but surer they cannot? And thus there is a constant hope and possibility, by continuation and propagation of principles and designs, backed with title and authority, that what cannot be done in one kings reign may be done in the next, and so on; for the minds of princes are not usually contracted or contented with present enjoyments, especially if there be any restraint on their wills, or more of heighth or advancement to be attained unto.

Yea, this is one of the main reasons (that in our times can be rendred) why we have had such uneven actings, and such strange alterations, in several kings raigns; the principles, the laws, the people have been always the same, who are capable of small, or no variation or change, but as higher and supream influences move them, of which none hath been so powerfull as princes, who, as they are stars of the first magnitude, so of the strongest operations; and though the people be compared to the sea, yet as the sea they have no turbulent motion of their own, but what is occasioned by violent and uncertain winds; but the great change hath been by the temper and actings of

princes, and commonly the next successor hath been the omen and fate of the times; if any way good, then the nation smiled, and his raign began the spring; if probable, there was hopes; and yet both these at first promised, but at length frustrated; and however the beginnings were, yet the succession of acts demonstrated how the title was created, for, untill they have made their succession sure, none have been more fair and promising, but afterwards both laws and liberties, like favourites, have been advanced *ad placitum;* and what they have got an interest in by nature, that by prerogative they have centred in their own proper persons, even the most fundamentall priviledges of the people, and have only granted leases unto the people of their own inheritances, and dated them not for life, (which would have been too great a mercy,) but as long as the royall pleasure lasts, which changes alwayes with advantages. Yea, by this succession tyranny is so intailed, and all things so necessarily acted, as if the prince were not onely the civil but natural parent of the people, and that kings had begot the people as so many bastards to obey, as they do beget one lawfully to raign over them.

Its too well known, that good and wise men are the fewest of the sons of men, and are commonly pickt out here and there, as rich pearls on the shoar of violent torrents; but to expect in one line and family a succession of good, wise, and governing men, is almost as probable to Christians, as to expect Mahomets second coming among the Turks, after so many hundred years delusion; and although it must be acknowledged, that there have been some good kings, yet they have been so few, that as their names, from the beginning of the world, can hardly make up the dominical letters in the almanack, or possibly supply the holy dayes in the year, so a little goodness hath gon far, and at the best we shall finde it but comparative; good kings instead of better governors, as some of the Roman Cæsars, chose those to succeed them who were worse then themselves, that they might commend and set off their own raign, though tyrannicall enough in it self; and we may without any passion demonstrate, that the design by succession hath been rather to keep up the governors, and palliate their vices, then ever to maintain or highthen the glory and splendour, or carry on the benefit of the government it self, in the execution of good or righteous laws.

But to come nigher home, and leave generals, (granting succession in it self to be a good title) let us view without partiality the succession of the Kings of England, whereby they plead their title to the crown, and we shall find in our histories that nothing hath been more commonly interrupted, then a succession of the next heir; and for this seaven or eight hundred years, (if not more) we have not had succession continued in any even line or just right, and no title was ever more broken and unjust then of our kings, if they make a lineall and hereditary succession the foundation of their right; let us look but a little back to those which preceded the Norman race, especially among the Saxons and Danes, the antient competitors for the government of this nation, and it will appear that the right heir hath been commonly past by, and strangers or usurpers preferred; to go no further back then to Alfred, King of the West Saxons, and the twenty fourth monarch of the Englishmen; as soon as he died, Athelstan, his bastard, was preferred before his legitimate son Edmund, and after him got his own brother Edmund to succeed him, and though this Edmund left two sons, Edwin and Edgar, yet as he and his former brother had usurped the government, so Edred his brother stept into the throne, and put them by until he had finished his raign, and then they took their turns, Edwin first, and Edgar after him; this Edgar had two wives, Ethelfled his first, and Elfrida the second; by the first he had issue Edward, sirnamed the Martyr, who succeeded his father in title; but having hardly felt the crown warm and fast on his head, was cruelly murthered to make way for the second wives son, Ethelred, who succeeded him, as Daniel well expresseth it, "whose entrance into his raign was blood, the middle misery, and the end confusion;" and

Dan. Hist. p. 14. Speed.

though he left his son Edmund, sirnamed Ironside, to succeed him, yet Canutus the Dane, by compact, got half of the kingdom from him, and soon after the whole, setting up his Danish title, and murthering the two sons Edmund had left, with his brother Edwin, that no further pretence might be made by them of their title; and now come the Danes to convey their title by Canutus, and yet Harold his bastard gets the crown before Hardicanute, who was his legitimate son, and among these three kings, (for the government under the Danes continued but twenty six years, and only under these three was a one usurper, and immediately interrupted the right of succession, and the Danes government being ended, which was but an intervall of conquest) the Saxons regain their title; and Edward, called the Confessor, the seventh son of Ethelred (who came in with the murther of the right heir) being kept as a reserve in Normandy, is elected king, and the Saxons title now begins to revive, but soon its extinguished, not onely by the Norman pretence, but by the next successor, Harold the Second, son to Goodwin, Earl of Kent, who came in with the expulsion of Edgar Athlings, the proper successor. Speed

And with Harold ended the Saxon race, which had lasted about five hundred years, after the coming in of Hengist, and their plantation in this kingdom; and yet you see what have been the titles successively of these former kings, wherein the line hath not onely been now and then, through force and violence, cut off and discontinued, but usurpation solemnized with as much ceremony as any natural pretence: But these instances are but as representations of objects afar off, which may seem otherwise then they are; we will go on and review the title of our kings from William the Norman, sirnamed the Conqueror, and by whom, not onely the line, but all the whole frame of laws and liberties were not only curtail'd, but changed; for though, in the raigns of former kings, every conqueror made his impression, and drew his picture in England, yet never was the whole scene of state changed untill now, and a new model so peremptorily (and without repeal) introduced, as by him: The first *jus*, or right of his title, (the onely foundation of all the rest of our latter kings) we all know was by meer conquest, which as it is a disseisin in law, so an unjust title in reason, and common to one as unto another: yet he, though a bastard, (and so had less title to his dukedom then to England, which he won by the sword,) made himself the principal of that divine succession we now stand upon, and all our kings have no other pretence then by the succession of his sword; and certainly if the fountain and head-spring be corrupt, the stream cannot be christall and pure, and yet (as Baron Thorpe declares in his charge, given at the assizes holden at Yorke, the twentieth of March, 1648, and now in print,) of all these twenty four kings, which have king'd it amongst us since that William, there are but seven of them that could pretend legally to succeed their former predecessors, either by lineall or collaterall title, (and he might have contracted that number, and have been modest enough.) But, that the reader may not be prejudiced, or wrap up his understanding in any expression, let him but follow the discents of the Kings of England in the line, (and pardon the first strange and exotick way of right) and he will discover, that as the first title was created by force, so the succession hath been continued by usurpation. Speed (too royall a writer) gives us a hint to go on upon in the life of Henry the Fourth, page 746, (asketh by way of interrogation) what right had Will. the Conqueror, the father of all our glorious tyrants? What right (we speak, saith he, of a right of equity) had his son William Rufus, and Henry the First, while their elder brother lived? and so he goes on. But to give a more particular account to the reader how every king came to his crown, let us begin with the first of the first.

After that the first William, who laid the foundation of his right in the blood of the English, had left this world, as well as his kingdom, great strivings there were who should succeed; and though he left three sons, Robert, William, and Henry, yet could

leave but one heir, which was Robert; yet William, sirnamed Rufus, gets the crown set on his head, notwithstanding the elder brothers title, and though Robert fights for his right, yet, being too weak in the field, is forc't to a composition, on these terms, that he should injoy it after his decease, if he hapned to survive; and yet notwithstanding Henry the youngest brother (called Henry the First) steps in, and makes use of his brothers absence to set up himself in his place, and Robert yet surviving, he weares it in his stead, and however he strove to regain his right, he at last was fain to yield up, not only his title, but his person, to Henry, who not only unjustly excluded him from the succession to the kingdom, but cruelly put out his eyes, that he might only feel his misery, and never see his remedy. The line male of the conqueror is now extinct, as well as it was irregularly diverted; as William got his right by his sword, so all his successors maintained it in imitation of him, rather then by any legal pretence they could derive from him. But Henry the First (though he had come in over the back of his elder brother) that he might make more sure work for a succession, wanting issue male living, pitcheth on Maud, his daughter, formerly married to the Emperor Henry the Fourth, who left her a widow, and died without issue; and having sworn all the nobility (especially Stephen) to her, ordained her and her issue to be his successors in Englands throne, and married her again to Jeoffrey Plantagenet, the son and heir apparent of Fulk, then Earl of Anjou, by whom she had three sons, Henry, Jeffrey, and William; to Henry the crown belonged as next heir after his mother (by the usurped title of his father,) yet Stephen, Earl of Mortain and Bulloign, son to Adelincia, the third daughter of William the Conqueror, by Maud his wife, (notwithstanding his oath to the last king) gets the crown set on his own head, and excludes her and her issue for the present; yet after he died, Henry, called the Second, sirnamed Shortmantle, though his mother was alive, enjoys it. This Henry had six sons, William, Henry, Richard, Jeoffrey, Philip, John; the two first dying, Richard, the third son, the first of that name, sirnamed Ceur de Lyon, succeeded his father; this Richard dying without issue, his yongest brother John usurps the crown, notwithstanding Jeoffrey his elder brother had left a young son, named Arthur Plantagenet, Earl of Brittain, who was heir apparent to the crown; and after he dyed, Henry his son, the third of that name, succeedes him, though Arthurs sister was then alive, (though in prison) who was next to the title, such as it was; after him Edward, sirnamed Longshankes, called Edward the First, layes hold on the crown, and wore it with much majesty, and after him Edward the Second his son goes on, but still on the old account, and on the ruine of the most proper heirs; this Edward was deposed by the parliament for his ill government, as anon shall be more fully related, and his son, Edward the Third of that name, set up in his room; after him followed Richard the Second, son to the Black Prince, who was also deposed, after whose dethroning, Henry, called the Fourth, son to John of Gaunt, Duke of Lancaster, and uncle to the former king, snatcheth up the crown, though of right it was to discend to Edmund Mortimer, Earle of March, the son and heir of Lionel, Duke of Clarence, the third son of Edward the Third, and an elder brother of John Duke of Lancaster; and thus we have nothing hitherto but interruption and usurpation, and those which in their own reigns can pretend a divine title by succession, which must not be altered, can for their advantage put by the succession of the issue of others. But to go on: Here now began the bloody wars and contests between the house of Lancaster and York, which made the world to ring of the misery of the civill wars of England, and all about a title, and neither of them (if seriously weighed) had a right title by succession, if the first title of their ancestors were to be the originall; but, that custome might be the best right, he got in his son Henry, who was the fifth of that name, to succeed; and his son Henry the Sixt (though an infant) takes his place, untill Edward, Duke of York, overthrew his army in the battle at Towton Field, and got him deposed, and was proclaimed king by the name of Ed-

ward the Fourth, though the title had been carried on in the house of Lancaster thorow three discents; thus favour and fortune, not lineall succession, alwayes gave the best title; this Edward left two sons behind him, (to maintain the succession of the house of York,) Edward, and Richard Duke of York, and five daughters. His eldest son Edward, who was the fifth of that name, succeeded him in claim and title, but rather lived then raigned, (being an infant,) had never any actuall exercise of his government, for Ric. Duke of Glocester, and uncle to this infant, and made his protector that he might set up himself, causeth both the young titular king and his brother (these two royall infants) to be barbarously murthered in their beds, and so wears the crown himself, by the name of Richard the Third, untill Henry Earl of Richmond (a twigg of a bastard of John of Gaunt) by his valour at Bosworth field having overthrown his army, slew the tyrant himself, and created by his sword (for other he had none) a new title to himself, and was crowned king by the name of Henry the Seventh, who, what by his power and by a marriage of the Lady Eliz. the eldest daughter of Ed. the Fourth, confirmed his succession, and from him do all our later princes derive their title, as Henry the Eighth, Edward the Sixth, Queen Mary, Queen Elizabeth, King James, and our last tyrant Charles. This Henry, the foundation of our great ones, was himself but a private man, who, as Speed says, had scarce any thing of a just title or of a warrantable intention, but to remove an usurper; besides there were many naturall heirs of the house of York, which were children of Edward the Fourth, and George Duke of Clarence, Richards elder brother, who had better right; but when once a title is made it must be maintained, and if it can but get thorow two or three successors, its presently proclaimed to be *jure divino*, and pleaded as the onely just title and right.

Thus you have a faithfull and true account of the succession of our Norman monarchs; we can onely say we have had so many persons raigning, and as Kings of England; but for a title by lineal succession there is none, but what every man may make aswell as any man, and what is as proper to a stranger as to an heir; power and favour, murther and deceit, being the most common principles of the right of most of our kings to their government over us. If it be asked, as Speed doth, What right had William the Conqueror? Then it must follow, What right had all the rest? But supposing his right, What right had these who so many times cut off the line, and made themselves the stock of future succession? And what misery is it that this broken and usurped title must still be forced on us, even by an ecclesiasticall and divine institution, who have now a way of redeeming our liberties and bettering our conditions, and following the direct line of just and true titles, the election and choice of the people? Is not five or six hundred years enough for England to be under the succession of a Norman bastard (pardon the expression, its true though plain) and to be sold, with all its liberties, from usurpation to usurpation, as well as from generation to generation? I need not be very zealous in application, the history is enough to make all wise men consider by whom we have all this while been governed and upon what terms; how tyranny and usurpation comes to be adored, if it have but a royal name added to it. Shall the parliament of England be now blamed for cutting off that race of usurpers and tyrants, and reducing affairs to their first naturall and right principle, or will the people of England, after all their experiences, centre their liberties and freedoms in a customary usurpation of succession, and lose their commonwealth for the personall glory of a young pretender, especially when they have fought against the father, and cut him off as a tyrant, endeavour to set up the son to follow on both the first cause, and revenge meerly because he was supposed to be proceeded of his polluted loyns? This blindness will be our misery, and endear us to a more perfect and more tyrannicall slavery then ever yet England felt.

But to go on, the reader hath seen what a line we have had in England, and how pure a title our kings have had to their crowns; lets now but have patience to view their actings successively, and yet shortly, and we shall better guess of their right by their raigns; for though one would think that they should endeavour to make good a bad title by a good raign, yet it hath been far otherwise; every man having made his right by force, maintained it by tyranny, and when they have gotten power, never remembered how or to what end they attained it. If we look back again, and make a new and strict survey of their severall actings in their government, and go over every kings head since William the Conqueror, we shall not much mistake if we pass by Turkey, Russia, the Moors, and yet call Englands kings tyrants, and their subjects slaves; and however in the theory and system it have been limited and bounded by good and distinguishing laws, yet in the exercise and practique part almost of every kings raign, we shall find it deserve as bad a name as others who are called most absolute; for the laws and priviledges which this poor nation hath enjoyed, as they have been but complementally granted for the most part, and with much design, so they have ever (upon any occasion) proved but weak and low hedges against the spring tides and land floods of the prerogative of the prince, which hath always gained more on the priviledges of the people, then ever the sea by all its washing and beatings of its boysterous and unmerciful waves hath gained on the land; for if at any time the poor commons (through much struggling and a good and present necessitous mood of the prince) have got off any present oppressions, and forced out the promise for enacting of any good and seasonable laws, yet, either the next advantage, or at least the next successor, hath been sure either to silence or disannul it, and incroached upon it; and neither was priviledge or good law enacted or gained to the people, but by hard pressure of the subject, and with a predominant ingredient of the kings advantage, and still rather out of courtesie then right. We shall finde also, that England, for three or four hundred years together, (some *lucida intervalla* excepted) hath been a stage of blood, and the astonishment of all nations in civil wars, and that meerly, either for the clearing of the title to the crown (which yet at last was onely made lawfull by the prevailing power, and as soon made illegal when another side got the better) or else by the subject and barons taking up arms to defend themselves, and make rampiers (if possible) against the inundation of prerogative, and rather preserving then obtaining any additions of liberties, and yet they were commonly defeated at last; for if for the present by some eminent advantage they got a little ground, they soon lost it again by royal stratagems, and were either forced or complemented into their old miseries, with a worse remembrance of former actings. But to enter into the particulars of this sad story:

All men know (or may) the tyrannical domination of that first William, who behaved himself as a conqueror indeed, and a most perfect tyrant (since whom we have never had an Englishman but one, who hath been naturalized by the succession of his conquests as King of England,) he presently changed most of our laws, especially those wherein the English liberties were most transparent, and preserved and made new laws, and those which he left writ them all in French; disweaponed all the natives, sent the children of the best and most faithful of the nobility into Normandy as hostages, and the most gallant of the English were transported by him into France to serve his wars, that he might extinguish their families; he advanced his Normans into all places of the nation, and kept them as a guard over the English; brought in the cruel forest laws, and dispeopled for thirty miles together in Hampshire, pulling down many towns and villages, with churches, chappels, and gentlemens houses, making it a forrest for wilde beasts, (which is ever since named the New Forrest, but was the old ensign of our misery and slavery) he laid on innumerable taxes, and made laws royal, very severe, and in an unknown language, that the English offending might forfeit their states and lands to him, which they often did through ignorance. But, alas! what need I mention these?

Who ever reads but our histories, (and the most favourable and fawning royalist) will see more then now can be expressed; and yet here is the first fruits of our kings and of their righteous title, whose succession hath been as much in tyranny after him as in title. And yet we must, by a sacred obligation, be bound to maintain with our blood and lives the branches of this rotten root, notwithstanding all the providential and divine opportunities of casting off that miserable yoak which our fore-fathers so sadly groaned under, and would have triumphed in the pouring out their blood (which they shed freely, but to little purpose) but to have foreseen their childrens children might have but the hopes of attaining to.

William Rufus.

But although William the First made sure his conquest to his own person, yet by his tyranny he gave ground of designs and hopes of recovery after his death, and therefore the people who but murmured and mourned in secret formerly, consider now their condition, and that Robert, the right heir, was wanting, and his second son endeavored to be set up, begin to capitulate and repeat their former grievances, and to stand upon their terms with the next successors. But William Rufus, who longed for the crown, and saw what advantage he had by his brothers absence, through the mediation of Lanke-Frank, the Arch-bishop of Canterbury, (a man for his vertue and learning in great esteem with the people) got himself to be accepted and crowned king, (with exclusion of his elder brother) by fair promises and engagements to repeal his fathers laws, and of promoting the liberties of the English (any probability being then taking to the poor people;) but no sooner had he got the crown fastned on his head, (and defeated his brother in battle) but he forgat all his own promises, follows directly his fathers steps, grows excessive covetous, lays on intolerable taxes and merciless exactions, returns their longings, and hopes after their just libertie into a sad bondage and slavery. The poor people having thus smarted for their credulity, and renewing their sense of their misery, under the two former tyrants, take heart once again, and refuse to admit any after his death, until (as Judge Thorpe well expresseth it in that forementioned discourse,) they were cheated into a second election of Hen. the First, his youngest brother; for the people standing for their liberties (and yet, alas! but negatively, rather to be freed from excess of oppression, then knowing what true freedom was) having felt the misery of their loss in the two former persons (shall I call them kings?) raign; denied any consent to another person of that stock, without solemn capitulations and covenants to settle just laws, and to ingage for the execution of them, with abrogation of all former mischievous and inconvenient ones, (which Matthew Paris calls unworthily, a politique, but trayterous way of capitulating.) Whereupon Henry, who had nothing of title, made friends by his engagements, and Roberts absence in the Holy-Land, and doth absolutely promise to begin all anew, constitute just laws, reform his fathers and brothers exorbitancies, and to be as a nursing father both to church and state. These fair insinuations got him the crown, though Robert was to have it first by his own right, and next by his brothers covenant and will.

Dan. Life of Henry I.

And that he might not seem altogether disproportionable to his engagement, the first action of his government was, to bait the people and sugar their subjection, as his predecessor in the like interposition had done, but with more moderation and advisedness; but, having once secured his title from his brothers *jus*, and setled some affairs abroad, began much after the old strain, (yet not altogether so violent;) yet these cruel and savage laws of the forrest he revived and put in execution; yea, urged as the most fundamentall law of the realm, and many sore impositions he levied, (which the people were not able to bear,) that these two sons, though they ended the direct line, yet they propagated their fathers tyranny; onely he got the throne by force, they by subtilty and delusive engagements. And now the poor people, who had still been cozened, and are commonly passive, begin in the next kings reign, (*viz.* of Stephen, another usurper,) to be active, and to struggle for their liberties more seriously and thorowly,

and not contented with promises of abating former pressures, drew up the summ of their desires in a more exact method, and demanded publickly the restoring and re-establishing of St Edwards laws (for such a rarity was that former prince, as they canonized him a saint) which were many years before granted, but, by new and strange successions, buried; and Stephen, who came in odly to the crown, and was continually in various motions to maintain it, confirmed all these laws; and, to gain the people, ratified them by parliament, the best security in these cases. But soon after prerogative (like a lion in chains) breaks forth again with fuller rage, and devours all these grants, with the hopes and expectations of the people; for though in the two next kings raigns these grants were not actually repeled, yet were laid by, and only wrapt up in parchments, and husht by the noise of drums and trumpets. For Henry the Second, the next king, spent most of his time in cleering the controversie between *Regnum et Sucerdotium*, the crown and the mitre, as in setling his own title both here and in Normandy and Ireland. Awhile he and Thomas Becket were standing in the special rights and priviledges of the church and state, the liberties of the people were laid asleep, and certainly he hated the former grants, because made by Stephen, who had stoln the crown both from his mother and himself. The notablest story in this king reign, (setting by his warlike atchievements) is, that, after Becket had often foiled him in his authority, he was handsomely whipt by the monks in going to visit Beckets shrine, which was part of his pennance, for giving secret order to assasinats to make him away; and that he kept Rosamond as his concubine, to the vexation of Elenor his wife; who, at last, vented her revenge on her, having found her out in that intricate labyrinth, made on purpose for her at Woodstock, by the clew which Rosamond had carelesly untwisted.

The next that laid claim to this crown was his son Richard the First, surnamed Ceur de Lion, (as before,) who was to be commended rather for his personal valour in other nations, then for any good done to this. He began well in enlarging his mother Elenor, whom his father had imprisoned, because she could not abide his lascivious living with his wanton paragon Rosamond, and advanced many persons by speciall favours; yet these respects were more particular then of any publike advantage to the state, for out of a blind zeal in those times, after he had been in England but four months after his coronation, he went into the Holy-Land against the Turks, leaving the regency of the kingdom to an ecclesiastical person, William Longchampe, Bishop of Ely, who, to please the king, and by speciall command, undid the people, and committed great exactions; and, as Hoveden says, *Clerum et populum opprimebat, confundens fasque nefasque*, did all as he listed, and little cared by what means he filled the kings coffers and his own, (acting but by proxie, and in imitation of what his master would have done if at home, and by many a private command) as it afterwards proved; for when Richard undertook this voyage, that he might not seem at first burthensome to the people when he left them, and to maintain both his design and absence on their purses, (and so alienate their affections from him when at so great a distance, and give grounds to his brother John to try an experiment for the title) wisely sold much of his own estate to raise him monies, as the castles of Berwick and Roxborough, to the King of Scots for ten thousand pounds, and the lordship and earldom of Durham to Hugh, then bishop of that see, for much money, as also many honors, lordships, mannors, offices, priviledges, royalties, to many of the nobles and rich commoners, whereby he furnished himself with a vast treasurie of money for that service; and that you may see what interest he and his companions think they have in his peoples goods, (however they dissemble it,) he often protested that he would sell his city of London (as my author saith) to any that would buy it, rather then be chargeable unto others; but, notwithstanding all this, as the people were sadly opprest in his absence by his viceroy, so much more when he returned by himself; for he then began to redeem his time and to play *Rex* with a witness: he fell presently to plunder all religious houses, laid on new and unheard of taxes on the people, and resumed into his hands again all the lordships, mannors, castles, &c.

which he had sold to his subjects, and confirmed it by all the security they could have from man. This is the misery of depending on royal promises and engagements, which are usually nothing else but complementall engines to move up the peoples affections, while they more easily and insensibly drain out their blood and purses; this was the end of this rough and lionlike king, who reigned nine years and nine months, wherein he exacted and consumed more of this kingdom, then all his predecessors from the Norman had done before him, and yet less deserved it then any, having neither lived here, nor left behind him monument of piety or any publike work, or ever shewed love or care to this commonwealth, but onely to get what he could from it. We see hitherto what a race of kings we have had, and what cause we have to glory in any thing but their tombs; and yet, if we expect better afterwards, we shall be as much mistaken of their actings as they were of their right.

The next that raigned (though without any hereditary title) was King John, Ste- Dan.
phens brother, whose government was as unjust as his title, for he (having by election, out of fear and policy of state, got the crown, with expulsion of Arthur, the right heir *ut supra*,) embarked the state and himself in these miserable incumbrances, through his violence and oppression, as produced desperate effects, and made way to those great alterations in the government which followed; the whole reign of this king was a perfect tyranny; there is in history hardly one good word given him; the barons and clergy continually opposed him, strugling for a confirmation of their long desired liberties, but were most commonly either eluded or defeated by promises which were never intended to be performed, until, at last, being more entirely united with the commons, and stoutly resolved and confirmed by an oath, taken at St Edmunds-Burie in a general assembly, they then swore on the high altar never to lay down arms, if King John refused to confirm and restore unto them these liberties, (the rights which this kingdom was formerly blest with, and which all the late kings had cheated them of.) The king knowing their power, and considering their engagements, makes use of policy, and desired time to answer them, entertaining them with smooth and gentle language and courtesie, until he had got strength, and then he began anew to try experiments of securing himself and frustrating their desires; but the lords continuing their resolution, and knowing nothing was to be obtained but by strong hand, assemble themselves with a great army at Stamford, from whence they marched towards the king, who was then at Oxford, sent him a schedule of their claimed liberties, with an appendix of their absolute resolutions, in case of his denyal: this tyrant having heard them read with much passion, replies, Why do they not demand the kingdom as wel? and swore he would never grant these liberties, whereby himself should be made a servant. The barons upon his answer, being (as Daniel saith) as hasty as he was averse, resolve to seaze on his castles and possessions, and repairing to London, being welcomed by the citizens, who had too long groaned under the same tyranny, they get a great access of strength by new confederates, and renew their spirits and oaths for the thorow prosecution of the war. The king seeing himself at a strait, which by no ordinary strength he could evade, by gentle and teeming messages sent to the barons, he obtained a conference in a medow, called Running mead, between Windsor and Stanes, where armed multitudes came from all places, crying nothing but Liberty, Liberty, so sweet was that tone to them then. After many hard conferences, the king seeing it no time to dally, and that they would not trust him with any complemental expressions, whom they looked on as formerly perjured, grants their desires; not only, saith Speed, for liberties specified in *Magna Charta et Charta Forrestæ*, but also for a kind of sway in the government, by five and twenty selected peers, who were to be as a check over the king and his chief justiciar, and all his officers to whom any appeal might be made, in case of breach of any article or priviledge confirmed by that charter; and now one would think the people were secure enough, but though they seem now to have the livery, yet they had

not the seisin; for presently the king, having got now credit by the largeness of his grants, gets liberty with less suspicion to undo all, and in a short time (pretending these grants to be acts of force) having got power, renounceth his engagement by them, and afterwards repeals them, and despoiled all these of their lands and possessions, who had any hand or heart in procuring the former grants, and by new and additional laws, made them more perfect slaves then ever they were before, untill, at last, he was poysoned by a monk instead of being deposed.

But though he be dead, yet the miseries of this nation ended not with him; for his son, Henry the Third, who succeeded him, though he could not at first follow on his fathers designs (being an infant) yet at last did not only imitate but outstrip him; yet the English nation, (who are much given to credulity, and apt to be won by fair and plausible promises,) notwithstanding all the fathers iniquity, imbrace the son, having taken an oath of him, to restore and confirm the liberties they propounded to his father, which he had often granted, and as often broken; but for all his first oath, they were fain not onely to remember him of it by petitions, but oftentimes by arms and strength. And though there was in this kings raign twenty-one parliaments called, and many great subsidies granted in confirmation of their liberties, yet every parliament was no sooner dissolved but the ingagement ceased. A hint of two or three special parliaments and their success will not be amiss to be set down in this place.

This king not being able to suppress the barons and people by his own strength, (they having gotten not onely heart, but power) sends to forraign nations for aid, and entertains Poictovines, Italians, Almains, Provincioes, to subdue his own people, and set them in great places; which dangerous and desperate design the barons much resenting, raised their spirits, and ingaged them in opposition to his government, and set them on with more courage to look after their liberties; therefore they several times stand up against the violence of prerogative, but what through want of strength or caution they were commonly disappointed; yet rather (if we may speak truly) from the unfaithfulness of the king then any other defect, except it were their easiness to believe kings, when their prerogative and the peoples liberties came in competition; for after they had many times got, or rather extorted, many promises, and confirmed them by oaths, (the best humane security) they were put to new designs, through either the suspention or breach of them, witness these instances: After many foiles and tedious and various delusions by this king (whose beams attracted most, dazled others) the barons and people (who were then unanimous through mutual oppressions) fall more close and severe on their principles, and will not endure either delays or delusions, and therefore effectually to redress their grievances, came very well armed to a parliament then holden at Oxford (intended rather for getting subsidies then removing oppressions) in which assembly they put the king to it, urge their former complaints with more zeal and reason, and with an addition of a mighty spirit demand the absolute confirmation of Magna Charta, and in a larger edition (wherein are comprised those gallant priviledges of the Commons of England, which have yet been but kept by ink and parchment) and not trusting the king, got his son Prince Edward to seal it, with an addition of twenty four (some write twelve) peers, which Fabian stiles the *douze Peeres*, not only to see these priviledges truly observed, but to be as joynt regents with the king; and all the lords and bishops in parliament took a like oath to maintain these articles inviolable; yea, and all that would have any benefit of residence in the kingdom were enjoyned to take the same: But these were too strict bonds for such a princes wil; he soon finding advantages (as he sought them) recals all, gets a dispensation from the pope for his forced oath and to countenance his perjurie, and acts in the old account. The barons again stand up with the people stoutly for the performance of the articles of Oxford, and sometimes brought him into straits; yea, fully defeated him

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in many bloody battles, and regained the confirmation of the same laws with security: That all the castles throughout England should be delivered to the keeping of the barons; that the provisions of Oxford be inviolably preserved; that all strangers should be dismist the kingdom, but those which by generall consent should be thought fit to remain. This necessitous act, though, as it gave the people some peace and hopes, so it gave the king time to consider of new mediums; and therefore still to delay and blind, he assembles a new parliament at London, where, having (by the sprinkling of court water) won many lords to take his part, begins to surprise as many of the barons as he could get, and spoiled their castles and houses; that success and authority grows strong on his side, and the barons with some calme provisoes mediate a peace, insisting onely in generall that the articles of Oxford might be observed: But the king relying on his strength, defies them as traitors; which done, the peoples two generals, the Earls of Leicester and Glocester, seeing no other means but to put it to a day, supply their want of strength by their wit and diligence, and carefully and artificially placing their battel (which was fought at the town of Lewis in Sussex) overthrew the kings army, took the king, the prince, the Earl of Cornwal, and his son Henry, the Earls of Arundel, Hereford, with many other lords and gentlemen, both English and Scottish. Mat. Paris, p. 961. Dan. Hist. p. 179.

And now having the king and prince and most of the nobles, and a new confirmation of all, one would think the great charter was out of danger either of blotting or razing, especially if we consider the solemnities formerly used in the ratification of it, (as Daniel excellently relates it in his history, p. 169.) The people knowing that no civil promises or verbal professions would hold in kings raptured by prerogative, and devoted to perjury to maintain their tyranny, take a more ecclesiastical and divine way of obligation, swearing to excommunicate all that should be found infringers of that charter. When the people with the king and all the great nobility were assembled, with all the prelates and the chief bishops in their reverent ornaments (with burning candles in their hands) to receive that dreadful sentence; the king having one great candle in his hand, gives it to a prelate that stood by, saying, 'It becomes not me, being no priest, to hold this candle—my heart shall be a greater testimony;' and withall laid his hand spred on his breast all the while the sentence was pronouncing, which was *Authoritate omnipotentis Dei, &c.* which done, he caused the charter of King John his father to be read, and in the end having thrown away their candles (which lay smoaking on the ground) they cryed out, 'So let them that incurre this sentence be extinct and stink in hell,' and the king with a loud voice said, 'As God help, I will, as I am a man, a christian, a knight, a king crowned and anointed, inviolably observe these things.' Never were laws, saith he (whose words express the thing most emphatically) amongst men (except those holy commandments from the Mount) established with more majestie of ceremony to make them reverenced and respected, then these were; they wanted but thunder and lightning from heaven, (which likewise, if prayers could have effected, they would have had it) to make the sentence ghastly and hideous to the breakers of it; the greatest security that could be given was an oath (the onely chain on earth, besides love, to tye the conscience of a man and humane societie together,) which, should it not hold us, all the frame of government must needs fall quite asunder. Yet so (almost a miracle, though over common among our kings, saith Master Prin out of Mat. Paris) the parliament being thus dissolved (by a sacred and most solemn conclusion) the king presently studies how to infringe all the premises, his parasites telling him the pope could soon absolve him for a sum of mony, which afterwards the pope did, and the king returned to his former oppressive courses with more violence and hardness; and taking advantage by the division of the barons two generals, the Earls of Leicester and Glocester, the latter of which joyned with the young Prince Edward and Sir Roger Mortimer, the kings wicked counsellor, a new and potent army is Mat. Paris, p. 8, 9.

raised by them against the Earl of Leicester (who had the king prisoner) and those which kept constant with him for the peoples liberties; and he with the rest of the barons are overthrown; and immediately after a parliament is called, and all these laws and decrees made voyd; and that parliament held at Oxford, wherein all these laws were first confirmed by him, called *insanum parliamentum*, the mad parliament; and all these patents, commissions, or instruments, made to ratifie these articles, were brought forth and solemnly damned: And so bright and resplendent did prerogative break forth, that it was proclaimed treason in any but to speak or mention any of these grants with the least approbation; and because the city of London had engaged with the barons and people as a principal part of the whole, he would needs have burnt the city, had not some wise and potent favorites interposed, and yet they could hardly disswade him from that barbarous and impolitick wickednesse: But what he spared in their houses, that he got out of their purses, and made up all his losses with a thorough subjection of their persons and suppression of their liberties. I need relate no more of this king, nor make observations, the reader will be amazed at the repetition: He at least 20 times gave his promise for the confirmation and execution of these just decrees, (contained in Magna Charta,) and as many times was perjured, notwithstanding all the solemnities, both civil, moral, and ecclesiastical, used in the acts of ratification; this may learn us how to trust the most positive engagements of princes, which cross their own interest, and what to think of that word and promise they call royal. This king reigned fifty six years, the longest of any king of England: But we have had too much of the story of him, as he had too long a time to rule, considering his temper and design. Its well if we can be wary for the future, and be more cautious then to trust the most promising and insinuating princes with our liberties and priviledges, which can be no longer expected to be preserved by them, then they may serve as footstools to advance them in the throne of absolute majesty. But no more of this king; never were there more hard strivings and wrestlings between tyranny and liberty with such bad success to the people; I onely conclude his raign with the exhortation of the psalmist, psal. 146. 3, "O put not your confidence in princes, surely men of high degree are a lye."

King Henry is by this time layd in his grave, and one would think Magna Charta buried with him. His son Edward, who was his right-hand in his wars against the barons, and the principal agent in their ruine, succeeds him in the throne; and, instead of lessening, goes on, and makes an higher improvement of that royalty, which his father left him; having in his own person got the victory over the peoples libertyes in his fathers time, and having wonne, or worne out the greatest of those which opposed, and being long experienced in the world, so secured and advanced the prerogative, that, as one sayth, he seemed to be the first conqueror after the conqueror, that got the domination of this state in so absolute and eminent a manner, as by his government appears. He layd unsupportable taxes both on the clergy and laity, even unto fiveteens and halfs of their estates; as for tenths, that was comparatively accounted easy. The barons and people for a long time durst not move for removal of grievances, untill that the king (being always in wars in France, Flanders, Wales, and Scotland, and so needed continually vast sums of money) called a parliament, wherein he demanded a great treasure of money from the people, that he might give them somewhat in lieu of their expences, confirmed the two great charters on the petition of the barons and people, (and so stopped their mouths,) and this he did as often as he had extraordinary occasions for money; but (like all other royall promises) they were performed by leasure. Never was royalty more majestick and glorious then in this kings raign, and the people less able to oppose, he was always so watchful and eager to enlarge his own power. I shall end his raign also with what Daniel, that impartiall and witty historian, saith of him: "He was more for the greatness of the kingdom then the quiet of it, and never king, be-

fore or since (except our last Charles) shed so much Christian bloud within this isle of Britain, and was the cause of more in that following; and not one grain of benefit procured unto the people by all their expences on him, which was but to make themselves more perfect slaves."

The next king was Edward the Second, his son, who, though more vicious then the father, yet not more tyrannical. He gave more advantage to the people thorough his lewd life and unmartiall nature, to seek the confirmation and establishment of Magna Charta, and other good laws, which were utterly suppresst and darkened in his fathers reign. This prince gave himself over to all wicked courses, and surrendred his judgment, and the management of all affairs of state, unto evill and corrupt counsellors; especially to one Peirce Gaveston, who had both his ear and heart, unto whom he was so much endeared, that he ventured the loss of kingdom and all the hearts of his subjects for his company and preservation; and though the barons had by often petitions and earnest solicitations prevailed with the king to banish him, yet he soon after sent for him home, and laid him more nigh his bosom then before; on this the barons raise an army against the king, and send him word, that unless he would observe the late articles (which they had formerly, by much ado, got him to sign in parliament,) and put from him Pierce Gaveston, they would rise in arms against him as a perjured prince: the king (whom they found was apt to be terrified) yields again to his banishment, with this clause, that if he were found again within the kingdom, he should be condemned to death as an enemy of the state. All places were now dangerous to Gaveston, both Ireland (where he formerly was protected) and France also too hot for him; in this extremity, finding no security any where else, he again adventures on England, and puts himself once again into the kings bosom, (a sanctuary which he thought would not be polluted with blood,) and there he is received with as great joy as ever man could be; the lords with more violence prosecute their suite to the king for delivering up or removing him once more, but to no purpose; they, therefore, set forwards with an army, lay siege to the castle wherein Gaveston was, took him, and, notwithstanding the kings earnest solicitations for his life, they condemned him to the block, and took off his head. This obstacle being removed out of the way, the lords having now the better end of the staff, make advantages of it for demanding the confirmation and execution of all those articles formerly granted, threatning the king, that if he would not consent to it, they would force him by a strong hand; with this message they had their swords also drawn, and march towards London. A parliament is called, where the king, after a submission by the lords to him for that act done against Gaveston, contrary to his consent and will, grants the articles and pardon to them: but the king goes on his old way, adheres to wicked counsel, (waving the grave advice of his parliament,) and is ruled by the two Spencers, who acted with mighty strain of injustice, which caused the lords again to take up arms and stand for their liberties; but are, through the revolt of some and the treachery of others, overthrown at Burton upon Trent, and two and twenty noblemen, the greatest peers in the realm, executed in several places for nothing but opposing his evil counsellors. This was the first blood of nobility that ever was shed in this manner in England since William the First, which being so much, opened veines for more to follow; and now the beam of power being turned, regality weighs down all. But by degrees, through the continuation of his ill government, whereby he daily lost the peoples hearts, the lords get an army, and take the king prisoner, and by general consent in parliament deposed him as a tyrant, and elected his son Edward the Third to succeed, and his son was crowned before his eyes. Thus ended his raign, but not his life.

Poor England, which had laboured so long and successively under so many tyrants, and had contested so long with royalty for their dearly purchased liberties, might now hopefully expect, at least, a dawning of reformation, especially when they had got so

much power as to depose authority, and began, as it were, on a new account; and the truth is, affairs were now promising, and distempers seemed to wear away with the former governor; yet the condition of the kingdom had but a new face on it, and grievances were rather not aggravated or multiplied then any whit removed, and oppressions may be rather said to be changed from one shoulder to another, then abolished.

Prince Edward, who succeeded, who was crowned in his fathers life, had observance enough to remember his fate, and was much warned by it, both to prevent and suppress insurrections; knowing, by experience, the full state of the controversie, and therefore began his government very fairely and with much applause; onely, to prevent factions and sidings, he privately caused his father, the deposed king, to be cruelly murdered, and so sate more securely, though with more guilt, upon the throne; his raign was fifty years and odd months, the longest next Hen. the Third; he spent most of his time in the wars of France to regain his title to that crown, which the poor subject felt in their estate and families, and it was a happiness (say some) that he was so much abroad, for when ever he came home, as he wanted money to supply his expences, so the people got ground to urge their priviledges, and Magna Charta was, at least, twelve times ratified in this kings raign, and so often broken; yet, because he goes under the name of the best prince that raigned so long and so well, let the reader take but an instance or two concerning his engagements to perform the grand charter. This king in the first parliament made the fifteenth year of his raign, had granted the enacting of divers wholsom and seasonable laws, which he willed and ingaged unto for him and his heirs, that they should be firmly kept, and remain inviolable for ever, for the ratification of Magna Charta and other good laws formerly enacted; and that all the officers of state, as chancellor, treasurer, barons of the exchequer, judges, &c., should at that present in parliament, and for ever after, take a solemn oath before their admission to their offices, to keep and maintain the point of the great charter, and the charter of the forrest, &c. But no sooner was the parliament dissolved, but the very same year he publikely revoked these statutes, pretending that they were contrary to the laws and customs of the realm, and to his prerogative and rights royal, &c., wherefore we are willing (saith he) providently to revoke these things we have so improvidently done; because, (saith he) marke the dissimulation of princes even in parliaments, we never really consented to the making of such statutes, but as then it behoved us, we dissembled in the premises by protestations of revocation, if indeed they should proceed to secure the dangers which by denying the same we feared to come, with many more such passages; and yet this king is the phœnix of our more antient monarchs. But the reader may still learn what the best of our princes have been, and what weak assurances any ingagements from them are where power is wanting from them, and advantages present to them.

Master Pryn, the parliaments interest in the mititia, second part, p. 38, 39.

Another instance of his actings we may take up from the successe of his first siege of Tourney in France; having laid on heavy and excessive taxes to maintain that war, and the people seeing no fruits of all promises for executing the articles of Magna Charta, they refuse to pay any more, without more faithfull performance of his vows and solemn engagements to them, whereby he wanting mony, was fain to quit the place, and return for England, full of revengefull thoughts, and in much fury breathes out destruction to all the refusers: But the Archbishop of Canterbury told him publikely, but plainly, that he had oftentimes, as well as his father, offered manifest violences to the liberties of the English nation, comprehended in that grand charter, and, if he expected subsidies from the people, he must more carefully maintain their priviledges so justly due. But the king, vexed with such language, both storms against the archbishop, and as much as possibly he then could, sought the ruine of all that had made any refusall of payment of these taxes, although he had not in any manner performed his own promises. Yet I will end his raign, because he hath a name of a

good king (though, as Speed saith, by the generall vote of historians, he committed many foul errors in his government,) with a good act he did at the fiftieth year of his age,[1] which he kept as his jubilee. He called a parliament, and there freely heard the grievances of the people, and redressed many, especially a petition of the commons against the doublings of lawyers; he caused the pleas, which were before in French, to be made in English (a necessary law, saith Speed, if it had been as carefully observed, especially if he had ordered, saith he, that the same should not have been written in French, that the subject might understand the law by which he holds what he hath, and is to know what he doth.) But all this is not for nothing; for as he imparted grace unto his people (saith the same author,) for so all acts of justice are termed when granted by kings, so he took a care to replenish his own purse by it, that the poor commons obtain not any thing which they pay not too dearly for.

Here ends the life of the best reputed prince; and yet you see wherein his excellency lay. The best happiness the people had in his raign was that they had more engagements for their liberties with more cost, and the remembrances and sense of the goodness of them more fresh and sweet by the often repetition of them; but for execution or addition to them, they were as far to seek as in former times. And if it do possibly happen that in one king's raign, either through the goodness of his nature, or rather want of advantages, there be an intermission of oppressions, for that is the utmost that can be expected, yet the next king will be sure to make it up, and if they give the peop'e a little breath, its but that they may sow for the next to reap, or as they do with men on the rack, let them down and give them cordials and spiritfull liquors, that they may be the longer and more sensibly tormented; which was made good in the next king's raign, viz. Richard II., who presently dashes and utterly nips these blossoms that sprung out in the former king's raign, devoting himself to all uncivill and lewd courses; and to enable him the better unto it, layes on sad and miserable taxes on the people, without so much as a mention or hint of their liberties, and as a parallel of Edward II. both lived and died. Its enough to decypher his raign by his end; for he was deposed by the universal consent of the people in parliament as a tyrannical and cruel governor, and not a good word spoken of him to commend him in his government; and its pitty to aggravate his misery after his death, and yet, as we say, Seldom comes a better; when one is cut off, another, like the hydra's head, springs up in his place. Henry IV., who overthrew him in battel, and was made king in his stead (though by a wrong title,) at first promised the new modelling of laws to the peoples ease, and did, as in a compliment (rather to secure his title, then out of affection to the people or sense of his relation) redress many grievances which were more gross and less concerning the commonwealth; and as he did strive by these common acts to engage the people to him, so (as one that had continuall sence of guilt on him,) he got the deposed king to be barbarously murthered in the castle of Pomfret, that no competition might endanger his title by his life. He spent most of his raign in continuall wars about his title, and was often opposed as both a tyrant and usurper; but he still got ground on both the liberties and laws formerly granted; yet not so sensibly as in the former kings raigns, that the people may be said to have a little respite from the violence and height of prerogative by him; but they may thank the unjustness and brittleness of his title, for that he being more in fear of losing it, than out of love with the excess of his ancestors. I shall only add one story to conclude this king's raign, which is universally reported by most of our historians worth observation, because it hath much of ingenuity in it, and because they were his dying words. Being cast into an apoplexie, and nigh his end, he caused his crown to be placed by him on his pillow, least in the extremity of his sickness it might have been delivered to some other, who had better right thereunto then he had. But when his attendants,

[1] *Age*—Thus in the original; but it is probably a typographical error for *reign*.

through the violence of his distemper, supposed him to be dead, the young Prince of Wales seised on his crown, whereat the king started up, raising himself on his arms, demanded who it was that had so boldly taken away the crown. The prince answered that it was he; the king fell back into his bed, and fetching a deep sigh, and sending forth many a pensive groan, replyes thus: My son, what right I had to this crown, and how I have enjoyed it, God knows, and the world hath seen. But the prince (ambitious enough of a diadem) answered him thus: Comfort yourself in God (good father;) the crown you have; and if you die, I will have it and keep it with my sword as you have done; and so he did soon after, maintaining his father's injustice by his own.

And now comes up his son Henry V. as the next heir, who, though while a prince was given to many wicked practises, yet when a king became moderate, and hath better commendation then most of his ancestors. The people had two advantages and comforts by him; first, that his raign was short, and that he was much imployed in the war with France, for regaining a title to that crown, which he accomplished, and so they were free of civil wars, though they had still heavy taxes, yet they thought it better to pay for maintaining war abroad than at home; and truly, the people thought themselves very happy in this king's reign (though their priviledges were laid asleep,) that they had a little breathing time from domestick and civil wars, and had hopes to regain by degrees a reviving of their spirits.

But the next king, Henry VI., makes up what was wanting of tyranny and oppression in his father's raign. He was crowned king about the eighth or ninth moneth of his age, and so had not present oppertunity to shew his royalty. Until he came to age, the kingdom was well governed by his three uncles, Humphrey Duke of Glouceste, John Duke of Bedford, Thomas Duke of Excester, who by their wisdo~ and justice kept up the flourishing estate of the English nation; but when his years of nonage were expired, and he came to weld the scepter with his own hands (what as some favourably think out of weakness, for he was no Solomon,) all things went presently out of order, and prerogative breaks forth beyond bounds, which gave occasion to Edward Duke of York to try conclusions for his title against the house of Lancaster, and, making use of the discontents of the people through his evil government, opposed him and afterwards deposed him, and raigned in his stead by the name of Edward IV., and so by conquest he got the title to run through the house of York, having cut it off by his sword from the house of Lancaster. Notwithstanding actuall possession of three descents, many overtures of war were yet between them; for Henry was not yet dead, though for the present outed; but as a dying man strove for life, but being quite overthrown, was imprisoned, and afterwards murthered to secure the title. There was in these two kings raign, but merely for a title, fought ten bloudy battles, besides all lesser skirmishes, wherein many thousands of lords, gentlemen, and commons, were slain, and yet not one jot of advantage gotten by it for the peoples liberties; it being the misery and folly of the people to venture all they have to set up those over them who afterwards prove most tyrannicall, and to sow seeds of future misery, by spilling their bloods for a usurped title.

In his king's reign, as in the former, the whole land was miserably rent by unnaturall divisions against his title and government; and though neither of these two had a just title (if we will begin from the root) yet all the bloud of the nation is thought too little to be spilt to maintain their pretences. Yet we may not reckon this king among the worst, had it not fallen out that his title must be kept up with expence of so much bloud and ruin of the English nation; yet in his last five yeers he laid on such extraordinary taxes, and changed the form of laws, that he lost the love of all his subjects.

For Edward the Fifth, his son, who succeeded him in title, we need but mention him, for he had but the name of king (being an infant) and his reign may well be called an

inter-regnum, for ere he came to know what government was, he was cruelly murthered with his infant brother, by his uncle Rich. Duke of Glocester, who reigned both for him and afterwards for himself, by the name of Richard the Third, a bloody and cruel man, rather a monster then a prince: his name stinks in the English dialect. The shortness of his reign was the happiness of the people; for, after three years usurpation, he was slain in the field by the Earl of Richmond, who, by his valour more then his title, got the crown by the name of Henry the Seventh; this was the best act that was done by him in easing the kingdom of such a viper. In his reign (who is the first root of our kings since) the people had more hopes then benefits, and were rejoyced and made happy more by expectations then enjoyments of any real priviledge or liberty. For though he took all the ways to secure his title by his marriage with the Lady Elizabeth, daughter to Edward the Fourth, yet many stratagems were laid to disturbe his peace, which put him on acts of policy and diligence, (which he excellently demonstrated) to free and extricate himself out of dangers and designs; many sad divisions were still in the kingdom; all men were not pleased either with his title or government, and, that they might but disturbe him or hazard his crown, they made stage kings, drest up pretty lads in princely robes, and carried them up and down the kingdom as puppets for the people to gaze on and admire; all this while King Henry had not time to advance his prerogative, while he was but securing his title; but after he had done that, and now began to look on himself as free from either forraign or home competitors, and the coast of state seeming cleer from all thickning weather, he thinks of redeeming what he had lost by factions, and imployes his wit for bringing down the height of the English nation, and plucking down their courage, and was especially (saith one) jealous over his nobility, and remembring how himself was set up; and how much more did this humor encrease in him after he had conflicted with such idols and counterfeits as Lambert, Simnel, and Perkin Warbeck? The strangeness of which dangers made him think nothing safe, and thinking that the riches of the English occasioned their rebellions, he took a course to empty their coffers into his; and the plot whereby he meant to effect it was, by taking the advantage of the breach of penal laws, which he both found and made for that purpose: his instruments, which for this work were pickt and qualified sufficiently, were Sir Richard Empson and Edmund Dudley, men learned in the law and of desperate and subtle heads, and forward in executing the kings cammands; these two, attended by troops of base informers, promoters, catchpoles, cheaters, knights of the post, &c., went up and down the kingdom, cruelly polled and taxed all sorts of people, and prosecute in every shire the most deserving and generous men, that the kingdom in a little time was more beggard then by most of the former civil wars, and all this done by the kings speciall command and countenance, that we may see what was the reason he began not sooner to play *Rex*, want of opportunity and fear of losing his crown while he was advancing to it; but the latter end of his raign was too soon and too long for such actings. This king ends his raign with the greatest acts of tyranny; he made himself a rich king by beggaring his subjects; after he had freed his own person out of danger, he imploys all his wits to enslave the English: the fruits both of his title and tyranny we have felt ever sence in these that followed him. Sir Francis Bacon.

His son Henry the Eighth of that name succeeds him. In his first beginnings he seemed to be tenderly affected to the commonwealth, and redressed many grievances, especially those which were laid on by his father, and executed by Empson and Dudley, doing justice on them for their cruelty and oppression But those affections were too good and too violent to last long; the sound of drums and trumpets soon quasht them, and many encroachments grew on the peoples liberties, many tempestuous storms and controversies there were in this kings raign; but they were more ecclesiastical then civil, and so more dangerous and strong. In a word, he was accounted a better souldier then a governor, and more fit for a general then a king to govern by just and

equal laws: the best act he did, was the discovery of the wickedness of the clergy and casting off the popes supremacy, which yet he took to himself, and annexed it to his own crown; as the most of his raign was ful of controversies and tempest, so all affairs were managed in a ranting and turbulent manner, not with that gravity and soberness
Martin. as becomes civil and prudentiall transactions; he was very lascivious, and delighted much in variety and changes of laws as wives; he oftentimes much pleased himself to be in the company, and was over-familiar with swaggering and loose fellows, and the people ever and anon found the power of his prerogative at home, as his enemies did of his sword abroad. Edward the Sixth, his only son, succeeds him, a prince that was too good to live long, the phœnix of English kings, had he had time to prosecute his intentions and mature his genius; but the sun in him did shine too bright in the morning; God gave England onely the representation of a good king, but would not in judgement let us be blest long with him. Religion began to revive, liberty to bud forth, the people to peep out of their graves of slavery and bondage, and to have their blood fresh and blushing in their cheeks; but all is presently blasted by his death, and the people (who have seldom more then hopes for their comforts) are now fainting for fear; England is benighted and hung with black; Queen Mary, that Alecto and fury of women, succeeds, and now both souls and bodies of the people are enslaved, and nothing but bone-fires made of the flesh and bones of the best Christians: but its too much to name her in the English tongue. Queen Elizabeth succeeds her, who, being prepared for the crown by suffering, came in a most seasonable time, both for herself and the people, who were made fuel for the flames of her sisters devotion.

And now England begins to flourish again, and to recover its strength; many inlargements were granted, both to the consciences and estates of the people; yet, if we speak impartially, we were kept further off Rome then royalty; yet doubtless she may be chronicled for the best princess, and her raign the most even and best managed, with more fruits to the people then any of the former kings, especially if we consider how long she governed this nation. I end her raign with this character, that she was the best queen that ever England had, and the glory of her sexe to all ages.

The English line is now ended: we must go into Scotland to seek for a king, because a daughter of Henry the Seventh was married to James the Fourth, King of Scotland; but I will not question his title.

King James the Sixth of Scotland and First of England succeeded on the English throne;—a prince that had many advantages to set up prerogative, which he improved; he was too timorous to act, but most subtle in councel and designs, and no king did more insensibly and closely undermine the liberties of England then himself; he gave us cause to remember from whence he came; but his peaceable raign was the rail to his design, and did choak suspition; we were brought by him very nigh Rome and Spain, and yet knew it not; he had an inveterate hatred against puritans, as he had a fear of papists, and made more of bishops then ordinary by remembrance of the Scots presbytery; he had as much of royalty in his eye as any prince could have, but had not so much courage to prosecute it; the puritan always lay in his spleen, the papist on his lungs, that he durst not, that he could not breathe so clearely and strongly against them, but the bishops lay in his heart. I will not rip up his personal failings after his death; he was the most profane king for oaths and blasphemies that England had besides, &c. He now grows old, and was judged only fit to lay the plot, but not to execute it; the design being now ripe and his person and life the only obstacle and *remora* to the next instrument, he is conveyed away suddenly into another world as his son Henry was, because thought unsuteable to the plot, it being too long to waite untill nature and distemper had done the deed.

We are now come to our last Charles (who is like to end both that race and its tyranny) the perfect idea of all the rest, and the most zealous prosecutor of the designs of

all his ancestors, who, if Divine Providence had not miraculously prevented, had accomplished the utmost of their intentions, and for ever darkned the glory of the English sun. So much I must say of him, that he got more wisedom by action then could possibly be expected by his nature; experience that teacheth fools made him wise; he endeavoured to act what others designed; he dissembled as long as he could, and used all parties to the utmost, but his zeal and hardiness brought him to his death. He needed no physick for his body, had he remembred his soul. But what need I mention him? He is the last of English monarchs, and the most absolute monument of monarchy and example of tyranny and injustice that ever was known in England; he would have been what other kings are, and endeavoured to attain what others would be; he lived an enemy to the commonwealth, and died a martyr to prerogative.

Thus you have seen a faithfull representation of the Norman race, under which we have groaned for about six hundred years; the first title made onely by the invasion and conquest of a stranger and bastard, continued by usurpation and tyranny, that take away but two or three persons out of the list, (and yet these bad enough if we consider all things,) and all this while England neither had a right heir or good king to govern it, and yet by delusion and deceit we must be bound to maintain the title as sacred and divine, which in the beginning was extorted and usurping, as if grey hairs could adde reverence to injustice. England hath now an advantage more then all its ancestors of freeing itself from this successive slavery, and interrupting that bloody line, and after an apprenticeship to bondage for so many hundred yeers, Providence hath given us our own choice; if we take it we are made, if not, the old judgement of God lies on us for our stupidity and blindness. For my part, as I do not give much to that monkish prophecy from Henry the Seventh times, Mars, Puer, Alecto, Virgo, Volpes, Leo, Nullus, (yet I wonder how the devil could foresee so far off, and must needs say, that it hath yet been literally fulfilled, both in the characters of the persons and the issue,) yet I must so far give way to the power of divine actings on my faith, as to think that either we shall never have a king more, or else we shall have one sent of God in wrath, as the Israelites had, seeing we are not contented that way which God hath from heaven led us to.

As for the title of this prince (who would fain be accounted the right heir) let us but remember from whence he had it, and how its now tainted; were it never so just, the treason of the father hath cut off the son; and how unwise an act, besides all other considerations, will it be for England to set up the son to propagate both his fathers design and death. We may prophesy soon what a governor he is like to be, which hath both suckt in his fathers principles and his mothers milk; who hath been bred up under the wings of popery and episcopacy, and doubtless suckt both brests; one who was engaged from the beginning in the last war against this parliament, who hath the same counsellers his father had to remember him both of the design and the best ways of effecting it; one who hath never yet given any testimony of hopefullness to this nation, who was in armes when a subject against the libertyes which England and Scotland spilt much blood for to maintain; one who hath both his fathers and his own scores to cleer, and is fain to make use of all mediums, though never so contrary, attended with all the crew of malignants of three nations, who is so relatively and personally engaged, that both old and new reckonings are expected to be payd only by him. To his father he is endebted for his crown, and bound to pay his debts, both ecclesiastical and civil (which will amount to no small summe;) to the papists he is engaged for their old affections and hopes of new, besides the obligation of duty to his mother, and freeing her from her monastry and hermitage. To the Prince of Orange he owes more then his ransom, besides the states courtesies; to Ireland he is in more arrears then his kingdom of Scotland will be able to pay, and to Scotland, for his entertainment and enstalment, more then England (for present or in many years) can repay without a mortgage, or community of lands and liberties, besides what he

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owes England for helping his father to make the parliament spend so many millions of treasure, besides blood (which would have weighed down all expences besides) and helping as a prime agent the utter destruction of England, all which must be reckoned for with much seriousness; and if men have so much charity and generousness to forgive all, yet we have a reckoning with heaven to be discharged, which debt is yet unpaid, (without we think the fathers blood be sufficient satisfaction to divine justice;) and if that death should be a satisfaction for himself, yet not for his son, who joyned with him, and now continues the same fault and guilt, and intends to follow on with more violence and intention then ever. Can we think, and retain our memories and reasons, that Charles the Second can forget Charles the First? that custom and education can easily be altered? that the true and reall engagers with him and his father shall be razed out of his heart? or that he can heartily love his opposers, but as he may make use of them? or that, when some banks and rocks are out of the way, the waters and floods of royalty will not run in its wonted channel? will episcopacy dye in England, when kingship is set up? Can reason think or dream, that majesty will not eat out sincerity, or that presbytery can flourish in that state where prerogative is the ascendant? or is that person fit to be the medium of peace, and the glory of this nation, who was the conjunct instrument of the war, and the survivor both of the war and peace? a person that durst not stay in his own nation to plead his right, because of his guilt, whose youth and wilfulness is most unapt for the setling the storms and tempests of a distracted nation. But no more untill we feel the misery of such an attempt. It was said of Tiberius Cæsar in a satyricall expression, yet it proved true,

Suet. lib. 3. cap. 59.

Regnabit sanguine multo
Ad regnum quisquis venit ab exilio.

Who first exil'd is after crown'd,
His reign with blood will much abound.

When this poor nation (after all neglects of Providences) hath spent its blood and treasure to set up this prince in the throne, (which it may be they shall never effect,) yet at the last they must stand to his courtesy for all their liberties, which they can never expect, and make him a monarch. The patience and long suffering of God hath permitted usurpation and tyranny in England this long time, for the hardness of our hearts, and sottishness of our natures, and it may be, may lengthen it out to the utmost, which will be a misery with a witness, and yet a just punishment of God on those who were born free, but will sell away their inheritances for nothing to a stranger. Did ever king since the world began (setting aside some who were priests and prophets also) naturally and ingeniously, with a royall affection, devote himself to the propagating of the pure and reall liberties of the people? Let him be shown forth as a miracle; but that ever any one that hath been all his dayes, both in the father's time and his own, engaged in wars against the liberties of the people, (solemnly proclaimed in parliament,) and to set up prerogative, either intended or managed his raign that way, (however he was brought into his government,) I durst affirm to be a paradox, and the utmost contradiction: I am sure its as impossible to be found in England as the philosopher's stone among the Peripatecicks. But a word more to the title between the now present power and this Charles. What reason is there and equity, that the parliament of England (take them in what qualification you will) following to the utmost the first principles for the liberty of the people, should not be esteemed as just heirs, and their parliamentary successors, as this young confident? Shall William the Norman, (only having a better sword,) a stranger, one who by nature was never born heir of any thing, create himself a title to England, and a succession for many score of

years, meerly on that account? and shall every one after him break the line as they please, and take their opportunities to make themselves roots of kings, though springing in the wilderness? Shall Henry the Seventh, (the father of us all,) who was little less then a bastard, being the son of an illegitimate son of John a Gaunt, a forraigner, and private man, by fortune and power give himself a title to this crown, and all our kings since acknowledging right by that root? Must those pretences be sacred which have only the ordination of a more keen and glittering sword, and a confirmation by custome be thus divine? and shall not the parliament of England (cloathed with the authority of all the people, and carrying all the libertyes of England with them) backt with the power of a faythfull army, be thought (in the utmost criticisme of reason) to have as much title to propagate their successe for our freedoms, as they have had to convey both their usurpation and tyranny? that a private claym by a better sword should be *jure divino;* and a publique title both by reason, success, and providence of a solemn assembly, who have been many years opposing the former oppressions, and now have gained it, should not be accounted valid, nor of equal right with a successive illegall claim? Let all the world be judge (who consider the premises) and let the violentest reason unroyalis'd speak its utmost. It is high time now to end that line that was never either well begun, or directly continued. Charles the father is gone to his own place, and so is Charles the son likewise, he being in his own proper nation, Scotland: Let us keep him there if we be wise, and intend to be happy, and let England disdain to be under the domination any more of any forraign power for the future; and seeing we have conquered the conqueror, and got the possession of the true English title by justice and gallantry, let us not lose it again by any pretence of a particular and debauched person.

FINIS.

The King of Scotland's Negociations at Rome for Assistance against the Common-wealth of England, in certain Propositions there made for and on his Behalf; in which Propositions his Affection and Disposition to Poperie is asserted.

Published to satisfie as manie as are not willing to bee deceived.

By Autoritie.

Printed by William Du-gard, Anno 1650.

In the desperate situation of Charles II. during his residence abroad, there was scarce a court in Europe where he did not solicit relief or commiseration. That of Rome, which, for the sake of his mother, was likely to shew him some favour, was not neglected, although little could be expected from thence, unless some pecuniary assistance, and perhaps reiterated charges to the catholics of England and Ireland to retain their attachment to the royal cause. But as Charles hesitated whether to make Ireland or Scotland, both favourably disposed towards him, the scene

of his first attempt for recovering of his dominions, the pope's intercession became of peculiar importance in the view of the enterprize upon Ireland being decided upon. For this purpose, it would seem, the advances contained in these negociations were made by Charles to the see of Rome, through the medium of an Irish Carmelite. In fact, the time seemed to forward such an adventure. Prince Rupert had arrived at Kinsale with the revolted fleet of the parliament; Lord Inchequin had patched up a peace with the confederated catholics, and the Marquis of Ormond was marching at the head of a considerable army against Dublin. But Charles II. receiving proposals from Scotland, which, however severe in some points, seemed to be both sincere, and adopted by a nation capable of making them good, abandoned the Irish expedition for that to Scotland. The parliament, aware how odious the name of popery was to the Scottish nation, made the following papers public, in order to shew what an unfit person that presbyterian nation had pitched upon for their covenanted monarch.

Som weeks since, there was published in the Weeklie brief Relation, a paper containing som propositions made at Rome, as the title bears, for and on the behalf of Charles the Second, (as they stile him,) the most invincible King of Great Britain. There was then an account given how they came to hand; since that time, I have received two copies of the same propositions from Paris, beeing there printed and distributed among the clergie of France, to stir them up to make som contributions of money for him; and have been also thence informed, that one Roe, an Irishman, and provincial of the Discalceate Carmelites of Ireland, (who was sent to Rome by Ormond,) was lately at Paris in his return from Rome, and did avow those propositions were given in to the pope, and they were referred to a congregation of cardinals.

I have been also informed from a verie sure hand out of Italie, that an Irish priest, whose name is Dalie, who is confessor to the Queen of Portugal, is now at Rome by the command of the King of Scotland; that hee came by the waie of France, and spake there with the King of Scotland's mother, and received her directions; that hee is at Rome, and presseth and puts forward the said propositions verie hotly; that the pope and cardinals begin to take the same into serious consideration, and that it is expected something will be don upon them. Having received these later and further advertizements, and finding that the design is still carried on to obtain monie and means from the popish partie, for the subduing this common-wealth to tyrannie, and no doubt, in gratitude for the means of recoverie, wil also settle poperie; it was thought fit the whole should bee reprinted, to the end that all men might bee undeceived; and that even those who have given up themselves to bee imposed upon, (by that sort of men who pursue an interest of all others most destructive of the people's just and natural libertie) may see what a blessed propugnator this King of Scotland is like to bee of their presbysterian religion; his heart beeing at Rome, and his principal hopes from thence.

It would bee too great a wrong to anie reader, to think there were need of anie observations to be made upon a matter that so clearly evidenceth its own nature both in its root and tendencie. They who will yet bee deceived, deserve not either pittie after their error, or the labor of conviction.

I shall this week publish what I have somtime past had in my hands, and have hitherto forborn to print, expecting it should first have been made publick in France. The whole matter of fact stands thus: I received from France, by a gentleman newly com from Italie, a written copie in Italian, of propositions made to the pope on the behalf of the King of Great Britain, as the propositions style him; the propositions beeing of a strange nature, and such as argued him to bee an absolute papist; I endevored to bee further informed of them, and writ into France again about them, and had this answer, that the thing was commonly spoken of at Rome, that the same propositions

had been delivered to the pope, and were by him referred to som cardinals to consider of them: that they were originally in Latine, and that there was in Paris som speech among the popish partie to have them printed in French, hoping by that means to publish it the more generally, and thereby to draw all the popish partie to espous his quarrel, and make great subventions and supplies to him, upon the interest of the catholick Romish religion. But the queen, his mother, hearing of it, and judging that it would bee verie unseasonable to publish anie such thing during the treatie, lest it should alarum the Scots, and discover him before he had gotten possession of Scotland, which it was her councel he should do upon anie terms whatever; and that it would be extremely mischievous to him at that time, to have anie nois made of it in France, wrought with the *Liculent Civil* to have it supprest, and to keep it from beeing publick. While I was expecting weekly when I should receiv it thence in print, among other intercepted letters, there came to my hand a letter written from Paris without a name subscribed, but seeming to bee a priest, and holding a constant correspondencie with the priests here. The letter was directed to one Theodore Connel, after whom having enquired, I learn that hee is a priest, by extraction Irish, but borne in Spaine; and in this letter a copie of the same propositions in Latine, which his letter desires Theodore Connel to communicate it to such as hee thought fit, and especially to the gentleman here that was newly com from Rome. This second copie coming thus to hand, by waie of interception from that partie, may give satisfaction of the truth of the thing, and that it is a piece of that intelligence that is maintained among them, by which his designs are carried on with the popish partie, I thought fit to conceal it no longer, in expectation of it in print from France, but to publish it with this narrative how it came to hand; and have printed both the Italian and Latine copie, and put it also into English for their satisfaction who understand neither of the other languages. By this you may see hee hath learn'd from his fathers epistle to say, *Sanctissime Pater!* His maternal grandfather was wont to say after his apostacie from the reformed religion to poperie, that the crown of France was worth little, if it were not worth a mass or two. Perhaps the King of Scotland doth not much abhor from it, though hee publikly begins on the other side by swallowing a covenant or two, which if his father could have don, hee might have undon us all. But the King of Scotland had no other waie to get possession; and therefore, though the crown of Scotland be verie little worth, yet hee who had none, thought it worth a couple of covenants, especially when he can with as little scruple break them, as hee took them, when these his propositions at Rome have procured the begg'd supplies, and such assistance as may enable him to profess what hee is, and the Scots shall not need to ask us what that is; som of the chiefest among them have confess'd (though not under Confiteor) that they were sufficiently satisfied that hee was a papist.

Propositioni ê Motivi presentati á Innocentio X. Pont. Max. nell' anno santo, 1650, ê Christo et in nome di Carlo. 2. invittissimo Re della Gran Bretagna, Francia, et Hibernia.

Beatissimo padre, il presente oratore con ogni humilita dimostra alla santita vostra, che la causa e motivo principale di quel regicidio (dopo il create mondo non mai pio udito) contro Carlo 1. Padre del predetto Carlo 2, da suoi rebelli e crudelissimi subditi barbaramente commesse, furono le gratie, favori e concessioni, ben spesse et in diversi modi conferite alla cattolica religione, ed a suoi fautori, nei Regni di Inghilterra et Ibernia, et cio esser vero, si ravoglie per quello, che il predetto Carlo primo diede autori a al Marchese de Ormondo d' estabilir e concluder tutte le conditioni in favor della fede cattolica, con li cattolici confederati del predetto Regno d' Ibernia.

Percio il prefato Carlo primo dubitando chil detto Ormondo, per esser Eretico non sodisfacesse in tutto, alli preditti confederati, destino nell Ibernia il Marchese di Worcester soggietto veramente cattolica con assai piu ampla commissione. Nella qual, il predetto Marchese di Worcester hebbe pienissima autorita di concluder e terminar la pace con gli sopradetti confederati, e concerder gli qual si voglia conditione da quelli desiderata, tanto circa alla liberta della fede, quanto, risperto all ingiurie, ad essi fatte: Il che, del predetto Marchese di Worcester, stabilita la pace, fu copiosamente essequito.

Aggionge, chil predetto Carlo 1, nella stessa Inghilterra prepose ecommise il suo essercito al detto Marchese di Worcester, Arthoro Ashton, cavagliere della croce d'oro, ed altri cattolici consegnando di piu alli medissimi in governo, citta e castelli e munitissime forterre, an corche, contro il placito del popolo, che esclamava in contrario: Motivo, in vero, non lieve del regicidio, contro di quel re operato. Per il che si vede, che si-bene il detto Carlo non mori cattolico, non dimeno, per li cattolici, e par la loro salverra, fu estinto.

In oltre, beatissimo padre, il medesimo oratore humilmente referisce, chil presente Re Carlo 2. indubitato erede del predetto Carlo primo, e de suoi Regni (al quale di raggione, e legittimamente s'aspettano medesimi Regnio,) secondo il detto di Christo, reddite quæ sunt Cæsaris Cæsari, anco in vita di suo padre, si mostro molto inclinato verso la fede cattolica. in conformita di che, eguitando, le pedate paterne, non solo caldamente ravommando, ma anche espressamente ordino al Marchese di Ormond, vice Re del' Ibernia, mentre partiva verso quell' Isola, che procurasse in ogni modo render contenti e sodisfatti i cattolici confederati di quel Regno, concedendoli liberta di religione, rivocando alcune leggi penali, gia contro di quelli publicate, e finalmente restituirli le terre possessioni, et altri dominii, forse altre volte in virtu di quelle leggi guistamente confiscate. Le quali ordini il predetto marchese esseguendo con l'autorita, e nome delli dui predetti regni, cio e Carlo 1 e 2. concluse e stabili la pace con li detti confederati: il che fatto il detto re unitamente con gli cattolici a lui soggetti, mosse irreconciliabil guerra al parliamento Inglese: e pero da questi spiretati tyranni non meno insatiabilmente vien desiderato il sangue de questo re, che del, de lui padre.

Parimente il medesimo oratore con ogni humilta espone alla beatudine vostra, come i detti inhumani regicidi nefandamente usurpandosi ogni autorita nelli dominy sopranominate del re, crudelissimamente perseguitano, si nelli Inghilterra, com nell' Ibernia, esterminando tutti, e cia schedun cattolica, con esiglii, carceri, tormenti, confiscatione de tutte le sostanre, et in fine, con crudelissime morti. Ne sia testimonio la miserabilissima strage Cromueliana nell' espugnatione di due citta, cioe pontana, e nesfordia, e d'altri luoghi, quando tutti li cattolici di qual si voglia eta e fesso, restarono estinti. Ne faviano anche fede quelli che ultimamente si sono arrichiti ed ingrassati Inghilterra con la rovina e morte di tanti cattolici.

Dalle quali cose tutte e dalli decreti parliamentarii, come anco dal guiramento del conventione, o patto (come dicono quei perfidi) col suo Dio, si tocca la mano, ed e piu chiaro ch'sole, che questi regicidi piu che mai inhumani, cercano del tutto estinguerre i cattolici, ed affatto estirpare in tutto l' universo il santo nome della fede cattolica mentre gloriandosi, si ventano che quanto prima soggiogati questi dominii, sono per assalire ed infestar la Francia, poi la Germania, quindi l' Italia, e finalmente distrugger tutta Europa, reprimendo i re monarchi, nomi da loro aboriti, e mortalmente odiati e per dirla in una parola, non altra ha nel cuore questa maledetta canaglia, che due cose, cive, cive, l'esterminio della cattolica religione, e l annichilatione d' ogni monarchi. E conoscendo costoro, che ne il padre, ne il figlio sariano mai condescesi alli loro ingiusti e crudeli disegni, pero, quello a morte, e questo a perpetuo essiglio condanorno: applicando a se stess (ardire veramente nefandissimo) il nome di republica.

Per accorere ed evitare tali e tante insidie de rebelli, qui l' oratore alla santita vostra fa le propositioni che seguono.

1. Che vostra santita si degni assegnare del tesoro camerale, una considerabile somma d' entrata annuale, al detto Re Carlo 2. perche possa sostenere il peso dello guerra contro li detti ribelli di dio, e chiesa santa.

2. Che commandi a tutto il clero beneficato dell' universo, ei qual si sia grado, dignita, stato e conditione, che contribuisca il terzo, overo il quarto de loro frutti, entrate, proventi, ed emolumenti, par la detta guerra, come universale e cattolica, con ordinare, che detta contribucione si esborfie ogne se mesi, oversia come alla santita pui parera espediente.

3. Che per li suoi nuncii apostolici appresso tuti i principi, republiche, e stati cattolici operi in modo, che li preditta potentati siano amoniti nelle viscere di Giesu Christo, perchesi dispongano a comporre pace universale, e soccorrere unitamente il detto Re Carlo 2, non riconoscendo detti regicidi come republica, O stato, ne tempoco con quelli havendo alcun trafico o commercio.

4. Che per li predetti nuncii, overo per altra strada siano in tempo avisati tutti, e ciaschedun monarca h' Europa, accio si rendino sensibili in negotio di tanta importanza, nel quale, oltre il pregiuditio commune della fede, si tratta anco di proprio e particular interesse, mentre i medesimi tyranni, inimici mortali di ogni monarchia, conforme loro stessi, e con parole e con scritti manifestamente si dichiarano, ed anche e questo fine nella Germania, Francia, Spagna, Polonia ed anzi nelli dominii dello stesso Turco hanno en effetto eccitati sollevamenti molto pericolosi, ed eccitati, li conservano e fomentano, e per mantenerli, somministrano ad ogni momento larghissime spese.

5. Che vostra santita sotto pena di scommunica da incorrersi ipso facto, ingionga e commandi a tutti, e ciaschedun cattolico, che ne essi, ne alcun di essi direttamente o indirettamente, per mare, o per terra, ardisca servire alli preditti tyranni, ne tam poco gli assista o favorisco col coseglio o adjuto di qual si voglia sorte, ne sotto qual si sia pretesto.

Santissimo Padre, gli avennati rimedii sono da applicarsis a tempo, con li quali la fede cattolica, gia esposta a manifesto pericolo, si preserva. L'infinito numero de cattolici vien liberati dalle fauci della destruttione. Si restaura la monarchia, e quell' invittissimo Re della Gran Bretagna vien restituito in integro: Le quali cose tutte con encomii di lode essaltaranno sino alle stelle la santita vostra, la qual Dio onnipotente massimo per molti anni conservi felice.

L' Oratore, Occorrendo, esporra piu copiosamente a voce le sopradette propositioni, e motivi.

Copia vera tradotta dall' originale.

Propositiones et Motiva pro et ex parte Caroli secundi invictissimi Regis magnæ Britanniæ, Franciæ, et Hiberniæ, Innocentio X. Pontifici Maximo. Anno Jubilei præsentatæ 1650.

Beatissime pater! Præsens Orator cum omni humilitate ostendit sanctitati tuæ, quòd illius Regicidii in Carolum primum prædicti Caroli secundi patrem, à suis rebellibus et crudelibus subditis tyrannicè perpetrati (cujus simile ab orbe condito inauditum inter ipsas quidem barbaras, nedum civiles nationes) caussa principalis et occasio fuerunt, gratiæ, favores et concessiones sæpenumero et diversimodè religioni catholicæ ejúsque assertoribus et cultoribus, tum in Angliæ, tum in Hiberniæ Regnis. Hujus rei veritas ex eo constat, quôd predictus Carolus primus Marchioni de Ormond diversis commissionibus, autoritatem fecerit stabiliendi et perficiendi conditiones omnes pro fide ca-

tholicâ satis securas cum fœderatis prædicti regni Hiberniæ Catholicis. Præterea præfatus Carolus primus, timens nè dictus Ormondius, quia hæreticus, prædictis confœderatis in omnibus non satisfaciat, Marchionem de Worcester virum verè catholicum cum commissione magis amplâ in Hiberniam destinavit, in qua commissione prædictus Marchio de Worcester plenariam habuit autoritatem cum supradictis confœderatis pacem concludendi, ac conditiones omnimodè satisfactorias ipsis concedendi, tam quoad libertatem fidei, quàm ad alias injurias ipsis illatas concernantia; quod prædictus Marchio de Worcester absolutâ pace factâ abunde complevit. Insuper quòd prædictus Carolus primus in ipsa Angliâ, Catholicos, nimirum dictum Marchionem de Worcester, Arthurum Ashton equitem auratum, cum pluribus aliis catholicis suo exercitus præfecerit, civitates, castra, fortalitia munitissima (populi clamore in contrarium non obstante) ipsis gubernanda tradiderit; regicidii sanè in ipsum commissi non leve motivum. Unde constat denique quòd, licèt dictus Carolus non mortuus catholicus, pro catholicis tamen mortuus sit.

Rursus (beatissime pater) idem orator humillimè repræsentat, quòd modernus Rex Carolus secundus prædicti primi, ac suorum regnorum suis et indubitatus hæres, cui eadem regna, jure debentur, juxta illud Christi, reddite quæ sunt Cæsaris Cæsari, adhuc vivente patro suo, inclinationes erga fidem catholicam, bonas et verè naturalis visus est habere, juxta quas sui patris vestigiis inhærens, Marchioni de Ormond, Proregi in Hiberniam proficiscenti, non solùm commendaverit, verùm strictè et expressè in mandatis præciperit, confœderatis Hiberniæ catholicis quoad omnia satisfacere, quippe liberum eis religionis exercitum concedere, leges pœnales contra eos latas abrogare, terras, prædia, possessiones, aliáque dominia ipsis, aliquando, vel ullo tempore, vi dictarum legum, injustè ablata, tam laicis quàm ecclesiasticis omnia restituere: quibus mandatis idem marchio temperans, cum dictis confœderatis, nomine et autoritate prædictorum duorum regum, Caroli scil. primi et secundi, pacem iniit et firmiter conclusit. Ex cujus pacis conclusione dictus modernus Rex, unitim cum suorum dominiorum catholicis, contra parlamentarios Angliæ regicidas bello irreconciliabili sese involvit; cujus sanguinem propterea dicti crudeles tyranni non secùs ac patris insatiabiliter sitiunt.

Exponit ulteriùs suppliciter idem orator sanctitati tuæ, quòd dicti inhumani regicidæ, in dominiis præmentionati regis omnem autoritatem nefariè sibi usurpantes, omnes et singulos catholicos tum in Anglia, tum in Hibernia, partim exilio multando, partim carceribus detinendo, partim suppliciis affligendo, et partim denique crudelissimâ morte afficiendo (confiscatis priùs omnibus eorum bonis et terris) sævissimè persequuntur, teste miserrimâ Cromwellianâ clade in expugnatione duarum civitatum Pontanæ et Wexfordiæ, aliorumque locorum, in qua omnes catholicos sine discrimine sexûs aut ætatis, mactârunt: Testibus item catholicorum novissimè jam in Anglia morte et persequutione grassantibus. Ex quibus omnibus, ipsorúmque decretis parlamentariis, necnon juramento conventionis et practi cum Deo suo (ut vocant) manifestè constat, imò meridiano sole clariùs apparet, hos regicidas tyrannos finaliter contendere catholicos omnes ad interneciem delere, et fidem catholicam per universam terrarum orbem extinguere et radicitus extirpare, planè asserentes et gloriabundi jactitantes, in istis dominiis re priùs confectâ, se Galliam invasuros, deinde Germaniam, Italiam, totámque Europam pervasuros, reges et monarchas depressuros, quas denominationes odiosissimas habent et mirabiliter abhorrent, atque adeò summariè loquendo non aliud in votis habent quâm duo, nimirum religionis catholicæ exstirpationem, et omnis monarchiæ exstinctionem: Quibus iniquis machinationibus, quandoquidem spes ulla non exstiterit, quòd aut hic rex aut pater ipsius unquam assentiantur, morte et exilio afficiuntur, et rebelles ausu nefario jam nuper sese rempublicam appellant.

Ad occurrendum igitur infernalibus hujusmodi rebellium moliminibus, hic orator sanctitati tuæ has sequentes propositiones humillimè proponit.

1. Quòd sanctitas tua supradicto Carolo secundo ex proprio Thesauro pecuniæ sum-

mam considerabilem, et belli contra dictos Dei, ecclesiæ, et monarchiæ rebelles sustentationi correspondentem, annuatim suppeditet.

2. Ut faciat et cogat totum clerum beneficiatum, per universum orbem, cujuscunque dignitatis, gradûs, statûs, vel conditionis, ad contribuendum in tertia vel quartâ parte omnium suorum fructuum, redituum, proventuum ac emolumentorum dicto bello tanquam universali et catholico, et dicta contributio singulis tremestribus, vel prout sanctitati tuæ magis expediens videbitur, solvatur.

3. Quòd per eos apostolicos nuncios apud omnes principes, respublicas, et catholicos status, instantissimè agat, ut prædicti principes, respublicæ, et status, in visceribus Christi, admonentur et inducantur ad universalem pacem ineundam et concludendam, dictóque regi unitim subveniant, dictósque regicidas tyrannos pro republica aut statu nequaquam agnoscant, nec ullum cum eisdem commercium habeant, aut teneant.

4. Ut per prædictos nuncios, aut aliâ viâ, omnes et singuli totius Europæ monarchæ tempestivè admoneantur fieri sensibiles in hac caussa, in qua præter fidei detrimentum, de eorum proprio agitur interesse, ut pote prædicti tyranni in omnem monarchiam conjurati hostes, ut ipsi verbo et scripto palàm asserunt, ad quem finem in Germaniâ, Hispaniâ, Galliâ, Poloniâ, et imò in ipsis magni Turcæ Dominiis insurrectiones satis periculosas de facto suscitârunt, suscitatus fovent, et ad eas fovendas impensas subministrant, ad quas largè contribuunt.

5. Ut sanctitas tua sub pœna excommunicationis ipso facto incurrendæ, mandet et præcipiat universis et singulis catholicis, ut ipsi et eorum aliquis, directè vel indirectè, terrâ vel mari armatus non inserviat, consilio aut auxilio assistat, juvet, foveat, aut alio quocunque prætextu ipsis aliunde subveniat.

Sanctissime pater! præmissa remedia tempestivè sunt applicanda, quibus fides catholica imminenti periculo jam exposita, conservetur; catholicorum infinitus numerus destructioni eripiatur; monarchia restauretur; et invictissimus Magnæ Britanniæ Rex suo juri restituatur: Quæ omnia in cœlum laudibus sanctitatem tuam efferent, quam Deus optimus maximus diutissimè conservet incolumem.

Propositiones supradictas et motiva, si occasio postulabit, orator deponet fusiûs vivâ voce.

Propositions and Motives for and on the Behalf of Charles the Second, the most invincible King of Great Britain, France, and Ireland, presented to Pope Innocent X., in the Year of Jubile 1650.

Most blessed father!

Your present orator, with all humilitie sheweth to your holiness, that the principal caus and occasion of that regicide tyrannically perpetrated upon Charles the First, father of that foresaid Charles the Second, by his rebels and cruel subjects (the like whereof was never heard of from the beginning of the world, not onely among the civil nations, but even among the most barbarous themselves) have been the graces, favours, and concessions, so often and so manie wais extended to the catholick religion and the assertors and professors thereof, in the kingdoms both of England and Ireland. The truth hereof appeareth, in that the foresaid Charles the First gave autoritie to the Marquess of Ormond by several commissions, for the establishing and perfecting all conditions with the confederate catholicks of the kingdom of Ireland, of sufficient security for the catholick faith. Furthermore, the said Charles the First, fearing least the said Ormond (beeing an heretick) should not satisfie the said confederates in all things, hee sent thither the Marquess of Worcester, a man truly and wholly catholique, with a more ample commission; in which commission the said Marquess of Worcester had full authoritie of concluding a peace with the said confederate catholiques, and of giving them

conditions altogether satisfactorie, as well as concerning libertie of religion; as also as to other injuries that had been don unto them, which the said Marquis of Worcester making with them an absolute peace, did abundantly fulfil.

Further, this appeareth, in that the said Charles the First, even in England it self, did by commissions set the catholiques, namely, the said Marquess of Worcester, Sir Arthur Ashton, and manie others, over his armies; and made them governors of cities, castles, and strong holds, notwithstanding the clamour of the people against it, and which was not a slight motive of the regicide committed upon him, whereby it appears, that although the said King Charles the First died not a catholick, yet hee died for them.

Again, (most blessed father!) the same orator most humbly represents, That the present King Charles the Second, the true and undoubted heir of the foresaid Charles the First, and of all his kingdoms, to whom the said kingdoms belong of right, according to that of Christ, give to Cæsar the things that are Cæsar's, while his father yet lived, was known to have good and true natural inclinations to the catholique faith, following which, and going on in his fathers steps, did not onley recommend it the Marquess of Ormond, but gave it him in express command to satisfie in all things the confederate catholiques in Ireland; namely, That hee should grant them the free exercise of their religion: That hee should abrogate the penal laws made against them; and that hee should restore to the said catholiques, whether laicks or ecclesiasticks, their lands, estates, possessions, or what other rights did at anie time belong unto them, and by the said laws had been unjustly taken away; in obedience to which commands, the said marquess in the name, and by the authoritie of the said two kings, namely, Charles the First and the Second, he made and concluded a firm peace with the said confederate catholiques; by the conclusion of which peace, the said present king and all his dominions, hath involved himself with the catholiques in an irreconcileable war against the parlamentarian regicides of England, whose blood therefore the said cruel tyrants insatiably thirst after, as they did after his fathers.

The said orator further offers to your holiness, That the inhumane regicides do wickedly usurp to themselves in the dominions aforementioned all the autoritie of the king, do most cruelly persecute all the catholiques both in England and in Ireland, partly by condemning them to banishment, partly by thrusting them into prisons, and otherwise corporally punishing them, and lastly, by putting them to death; a witness of the truth hereof, is that great slaughter made by Cromwel, in the taking of the two cities of Drogheda and Wexford, and other places, where all the catholiques without discrimination of either sex or age were slaughtered; witness hereof also the raging persecution and death of catholiques in England; by all which, and by their parlamentarian decrees, themselves, and their covenant with God (as they call it) it is evident even beyond the clearness of the light of the shining sun, that these tyrannical regicides do ultimately intend and put forth all their power for the utter destruction of all catholiques, and to extirpate by the roots, and wholly to extinguish the catholique faith throughout the world, openly asserting and boasting with great glorie, that these things beeing once finished in those dominions, they will then invade France, and after that run through Germanie, Italie, and all Europe, throwing down kings and monarchs, whose verie titles are most odious and abhorrent unto them; briefly, they have no other thing in their votes then these two, namely, the extirpation of the catholique religion and the destruction of monarchie: To which wicked machinations of their's, forasmuch as they could never have anie the least hopes that either the king or his father should at anie time in the least assent; they have put the one to death, and the other to exile: And these rebels now, with a nefarious boldness, have lately called themselves a common-wealth.

To meet with and prevent the infernal endevours of such rebels, this orator most humbly offers to your Holiness the following propositions:

1. That your Holiness would make an annual supplie out of your own treasurie unto the said Charles the Second, of considerable sums of money, sutable to the mainteining the war against those rebels against God, the church, and monarchie.

2. That you would caus and compel the whole beneficed clergie in the world of whatsoever dignitie, degree, state, or condition soever, to contribute the third or the fourth part of all their fruits, rents, revenues, or emoluments to the said war, as beeing universal and catholick. And that the said contribution maie bee paid everie three moneths or otherwise, as shall seem most expedient to your Holiness.

3. That by your apostolick nuncioes, your Holiness would most instantly endevour with all princes, common-wealths, and catholick states, that the said princes, common-wealths, and states, may bee admonished in the bowels of Jesus Christ, and induced to enter into and conclude an universal peace; and that they will unitedly supplie the said king. And that they will by no means acknowledge the said regicides and tyrants for a common-wealth or state, nor enter into, or have anie commerce with them.

4. That by the said nuncioes, or any other waie, all and everie the monarchs of all Europe may be timely admonished, and made sensible in this caus; wherein, beside the detriment of the faith, their own proper interest is concerned. The foresaid tyrants being sworn enemies to all monarchie, as they themselves do openly assert, both by word and writing: And to that end, both in Germanie, Spain, France, Polonia, &c. and in the very dominions of the great Turk, they have raised dangerous insurrections; being raised, they foment them; and to that purpose they supplie the charge, and make large contributions to it.

5. That your Holiness would command, under pain of excommunication, *ipso facto*, all and singular catholicks, that neither they nor anie of them, directly nor indirectly, by land or by sea, do serve them in arms, or assist them by anie counsel, or help to favor or supplie them anie waie under whatsoever pretext.

Holy Father! the premised remedies are timely to bee applied, by which the catholick faith, now exposed to extreme and imminent hazard, maie bee conserved; an infinite number of catholicks may bee preserved from destruction; monarchie maie bee established; and the most invincible King of Great Britain restored to his rights: All which things will bear your Holiness to heaven with their praises, whom God long conserve in safetie, &c.

The propositions and motives abovesaid (if occasion bee) the orator will largely set forth *vivâ voce.*

Propositions et Les Motifs Presentez a Nostre Saint Pere le Pape Innocent X. du nom, en cette année Sainte de Jubilé 1650 *Par le Reverend Pere Jean Roe, Carmelite Hybernois. En faveur de Charles Second Roy de la Grand Bretagne, d' Escosse et d' Hybernie. Pour son establissement et conservation de la Religion Catholique, Apostolique, et Romaine en ses Estats.*

Copie extraicte de son original, et collationée.

A PARIS, M. DCL.

Tres-Sainct Pere, le present orateur en toute humilitè desire de vous monstrer, que la cause principale et occasion de ce regicide tyranniquement commis en la personne de Charles I. Pere de Charles II. par ses rebelles et crueis subjects, et dont depuis le

commencement du monde, on n'a oüy ny entendu parler d'un semblable, non pas mesme entre les barbares, non plus que parmy les nations ciuiles; n'ont esté autres que les graces, fauers et permissions qu'on a souuent et en diuerses facons concedées et octroyées, taunt au royaume d'Angleterre qu'en celuy d'Hybernie, non seulement à la religion catholique, apostolique et Romaine, mais aussi à ses confirmateurs et protecteurs.

La verité dequoy ne prouient d'autre motif, qu'a cause que ledit Charles I. auroit donnée plain pouuoir et authorité par diuerses commissions au Marquis D'Ormond, d' affermir et accomplir toutes les conditions certaines et auantageuses pour la foy catholique auec les confederez catholiques dudit royaume d'Hybernie. Dauantage ledit Charles I. craignant que ledit Ormond à cause qu'il estoit heretique, n' eust pas pleinement satisfait ausdits confederez, deputa le Marquis de Voércester, homme vrayement catholique, auec une commission plus ample, pour aller en Hybernie, dans laquelle commission ledit Marquess de Voércester eust plaine et absoluë authorité, de faire et conclure la paix auec lesdits confederez, et de leur conceder et accorder les conditions totalement satisfactoires qu'on leur auoir fait. Ce que ledit Marquis de Voércester menagea et accomplit de poinct en poinct.

De plus, que ledit Charles I. a preferé et donné surintendance en son armée dans la mesme Angleterre aux catholiques, à scauoir audit Marquis de Voércester, à Arthur Aston, Cheualier de la toison, et à plusieurs autres catholiques, mesme leur a baillé en gouuernement des citez, camps et autres forteresses tres-munies, et fortifiées. Ce qui a esté l'vn des principaux motifs de l'attentat funeste commis en la personne de la majesté Britannique, dont il est tres-constant, que ledit Charles I. mort non catholique à perdu la vie pour les catholiques.

Derechef, sa saincteté remarquera, que le mesme oratuer luy represente humblement, que le present Roy Charles II. principal et legitime heritier dudit Charles I. et de ses royaumes, et aquel lesdits royaumes sont deubs et appartiennent de droit, selon le dire de nostre seigneur, rendez ce qui est à Cesar à Cesar, *Reddite quæ sunt Cæsari, Cæsari.*

Du regne mésme et du viuant de son pere, on a remarqué qu'il auoit des inclinations bonnes et vrayement naturelles enuers la foy catholique, à cause desquelles suiuant de pres les genereuses inclinations de feu son pere, commanda tres-expressement audit Marquis d'Ormond vice-roy, s' en allant en Hybernie, de satisfaire, en tout et par tout aux confederez catholiques, comme de leur permettre et leur donner la liberté de l' exercise de leur religion, de casser tous les edits de mort publiez contre eux, de faire restituer tant aux laïques qu' aux ecclesiastiques, les terres, maisons et les heritages qu'on leur a injustement ostez. Par lesquels mandemens ledit marquis obtemperant auec lesdits confederez et de l' authorité desdits deux roys, scavoir Charles I. et Charles II. negotia et conclud heureusement la paix, par le moyen de laquelle paix le roy conioinctement auec les catholiques ses subjets, a entrepris une guerre irreconciliable contre les parlementaires, qui n'ont pas moins de dessein de faire en la personne du fils, ce qu'ils ont fait en la personne du pere.

De plus sa saincteté remarquera encores, que ces infames abominables regicides usurpans injustement et s'attribuans toure l'authorité royale, persecutent auec toutes les cruautez imaginables tous les pauures catholiques tant en l'Hybernie qu'en l'Angleterre, bannisent les vns, jettent les autres dans les cachots, et leur font souffrir toute sorte de tourmens; et apres auoir confisqué et enuahy les biens de plusieurs autres, les font mourir crouellement. Témoins les estranges carnages qu'a fait le General Cromouelle dans toutes les villes qu'l a prises, et sur tout dans celles de Pontare, Vaxfordie et autres lieux, ou il a fait passer par le fil de l' espée, sans exception d'aage ny sexe, tous les catholiques qui ce sont trouuez.

Testmoins encore ceux qui souffrent presentement dans les liens et dans les chaisnes audit royaume d'Angleterre, oú la persecution contres les catholiques est plus grande

et plus cruelle qu'elle n'a iamais esté ailleurs. Ce qui fait assez coignoistre, que l'intention de ces regicides et tyrans parlementaires auec la pacte et conuention qu'ils ont auec leur dieu, qu'ils appellent, n'est autre que de defaire en fin tous les catholiques, d' esteindre et d'aneantir par toutes les parties du monde, la foy et religion catholique, ne faisant point de difficulté de publier tout haut, qu' apres qu'ils auront asseurez les affaires du dedans deleurs estats, ils se jetteront sur leurs viosins, puis s'empareront de l'Allemagne, de l' Italie et de toute l'Europe, et depossederont tous les roys et les monarques, qui leur sons si odieux et qu'ils abhorrent si merueilleusement Et en vn mot, ils n'ont tien si à cœur que ces deux choses, scauoir l'aneantissement de la religion catholique et la ruine de toute la monarchie: Et comme le feu roy, et Charles second son fils, ont tousjours témoigné de l'horreur pour vn tel dessein, voila pour quoy ils ont fait mourir le premier et laissent le second comme vn exilé ; et par vne hardiesse et audace toute plaine de meschanceté, sedisent desja republique.

Pour empecher donc les effets funestes de si horrible et infernales entreprises le present orateur monstre et offre humblement à vostre saincteté, les suiuantes propositions.

I.

Premierement, qu'il plaise à vostre saincteté fournir tous les ans audit Charles second, et de vostre propre tresor, vne somme considerable d' argent, et capable d' entretenir la guerre contre les susdits ennemis de l'Eglise et de la monarchie.

II.

En second lieu, que vostre saincteté oblige tout le clergé de l' Vniuers à l' entretien de ladite guerre, chacun beneficier de quelque estat, qualitié et condition qu'il soit, baillant de son reuenu ; les obligeant en outre, à porter, ou faire porter ce qui se baillera, entre les mains de personnes commises à la recepte desdits deniers de trois en trois mois, ou comme vostre saincteté le iugera à propos.

III.

En troisiéme lieu, qu'il plaise à vostre saincteté escrire aux nonces et legates qu'elle a aupres des princes, republiques, et des autres estats catholiques, de les solliciter au nom de Jesus Christ, à la paix generale, et qu' ils joignent leurs forces à donner secours à sa Majesté Britannique, et ne recognoissent ces traistres regicides ny pour republique ny pour quelque autre estat que ce soit, ny d'auoir ny de faire aucune alliance auec eux.

IV.

En quatriéme lieu, que vostre saincteté face aduertir par ses legats, au autrement, tous les princes et monarques de l'Europe, comme ces traistres, et ennemis de la monarchie, ont sousleué presque dans tous les royaumes, des factions tres dangereuses, des troubles et reuoltes qu' ils entretiennent et fomentent à leurs propres despens dans toute l'Europe, mesmes iusques dans l'Empire des Turcs.

V.

En cinquiéme lieu, que vostre saincteté face defenses sur peine d'excommunication, *ipso facto*, à tous catholiques de quelque âge et condition qu'ils puissent estre, de porter les armes pour lesdits regicides, de leur donner aucun secours, soit directement ou indirectement, sur mer et sur terre, soit par conceil, argent ou autrement, pour quelque pretexte et occasion que ce soit.

Saint Pere, il est requis que ce soit au plustost qu'on applique ces remedes qui peuuent conseruer l'Eglise du danger éminent où elle est exposée; deliurer vn nombre in-

finy de catholiques de l' esclauage, et restablir la monarchie, et mettre ledit Charles second dans la possession de sa Courrone: Et cela estant, il n'y a point de nation au monde, qui ne benisse par ses loüanges vostre saincteté, et ne prie le ciel pour sa conseruation, auec autant de zele que fait celuy et fera toute sa vie, qui est en toute humilité.

P. I. R. C.

Concerning this French copie, it is to bee observed, that it hath a title different from that of the Italian and Latine, in which two there is not a word of its beeing presented by Friar Roe; and of two several French impressions that I have, the title of each differ from the other.

I have learned from Paris that this Carmelite Roe was, about the end of Januarie or the beginning of Februarie, commanded by the pope to leav Rome for som miscarriages of his there, which might caus these two propositions to lie still som while, till they were quickned by the solicitation of Dailie, sent from Portugal for that purpose.

That this negociation with Rome is not without example of the King of Scotland's father, (to omit the articles and instructions of his grand-father King James, concerning his son's match with Spain, tending to the introducing of poperie) you may see the transaction and correspondencie manifested by the pope's own letter to him, during his residence in Spain, and his answer thereunto, printed in divers languages and autors, here presented to you in English, truly translated out of the French copie.

The Pope's Letter to the King, when Prince of Wales and in Spain.

Most noble prince! health and light of the divine grace: Forasmuch as Great Britain hath alwaies been fruitful in virtues and in men of great worth, having filled the one and the other world with the glorie of her renown, shee doth also verie often draw the thoughts of the holie apostolical chair to the consideration of her praises: and indeed the church was but then in her infancie, when the King of kings did chuse her for his inheritance, and so affectionately, that wee believ the Roman eagles have hardly out-passed the banner of the cross. Besides that manie of her kings instructed in the knowledge of the true salvation, have preferred the cross before the roial scepter, and the discipline of religion before covetousness; leaving exampls of pietie to other nations, and to the ages yet to com; so that having merited the principalities and first places of blessedness in heaven, they have obtained on earth the triumphant ornaments of holiness. And although now the state of the English church is altered, we see nevertheless the court of Great Britain, adorned and furnished with moral virtues, which might serv to support the charitie that wee bear unto her, and bee an ornament to the name of Christianitie, if withal shee could have for her defence and protection, the orthodox and catholick truth; therefore, by how much the glorie of your most noble father, and the apprehension of your roial inclination delights us, with so much more zeal we desire that the gates of the kingdom of heaven might be opened unto you, and that you might purchase to your self the love of the universal church. Moreover, it being certain, that Gregorie the Great, of most blessed memorie, hath introduced to the English people, and taught to their kings the law of the gospel and the respect of apostolical autoritie, wee, as inferior to him in holiness and virtue, but equal in name and degree of dignitie, it is verie reasonable, that wee, following his blessed footsteps, should endeavor the salvation of those provinces, especially at this time, when your design (most noble prince!) elevates us to the hope of an extraordinarie advantage. Therefore, as you have directed your journey to Spain towards the catholick king, with desire to allie your self to the hous of Austria, wee do commend your design, and indeed do testifie openly in this

present business, that you are hee that takes principal care of our prelacie. For seeing that you desire to take in marriage the daughter of Spain, from thence wee may easily conjecture, that the ancient seeds of christain pietie, which have so happily flourished in the hearts of the Kings of Great Britain, may (God prospering them) revive again in your soul. And indeed it is not to bee believed, that the same man should love such an alliance, that hates the catholick religion, and should take delight to oppress the holie chair To that purpose we have commanded to make continually most humble praiers to the father of lights, that hee would be pleased to put you as a fair flower of Christendom, and the onely hope of Great Britain, in possession of that most noble heritage, that your ancestors have purchased for you, to defend the autoritie of the soveraign high-priest, and to fight against the monsters of heresie. Remember the daies of old, enquire of your fathers, and they will tell you the waie that leads to heaven, and what waie the temporal princes have taken to attein to the everlasting kingdom. Behold the gates of heaven opened, the most holie Kings of England, who came from England to Rome accompanied with angels, did com to honor and do homage to the Lord of lords, and to the Prince of the apostles, in the apostolical chair ; their actions and their examples beeing so many voices of God, speaking and exhorting you to follow the cours of the lives of those to whose empire you shall one daie attein.

Is it possible that you can suffer that the hereticks should hold them for impious, and condemn those whom the faith of the church testifies to reign in the heavens with Jesus Christ, and have command and autoritie over all principalities and empires of the earth? Behold how they tender you the hand of this truly happie inheritance, to conduct you safe and sound to the court of the catholick king, and who desire to bring you back again into the lap of the Roman church, beseeching with unspeakable sighs and groans the God of all mercie for your salvation, and do stretch out to you the arms of the apostolical charitie, to imbrace you with all christian affection ; even you that are her desired son, in shewing you the happie hope of the kingdom of heaven. And indeed you cannot give a greater consolation to all the people of the christian estates, then to put the prince of the apostles in possession of your most noble island, whose autoritie hath been held so long in the kingdom of Britain for the defence of kingdoms, and for a divine oracle, the which will easily arrive, and that without difficultie; if you open your heart to the Lord that knocks, upon which depends al the happines of that kingdom. It is from this our great charitie that we cherish the praises of the roial name, and that which makes us desire that you and your roial father might bee styled with the names of deliverers and restorers of the ancient and paternal religion of Great Britian. This is it wee hope for, trusting in the goodness of God, in whose hands are the hearts of kings, and who causseth the people of the earth to receiv healing, to whom wee will alwaies labor with all our power to render you gracious and favourable ; in the interim take notice by these letters of the care of our charitie, which is none other then to procure your happines ; and it will never griev us to have written them, if the reading of them stir but the least spark of the catholick faith in the heart of so great a prince, whom wee wish to be filled with long continuance of joie, and flourishing in the glorie of all virtues

Given at Rome in the palace of St Peter, the 20th of April, 1623, in the third year of our popedom.

The Prince of Wales having received this Letter, made this following Answer, which was after published in Print.

I received the dispatch from your Holiness with great content, and with that respect which the pietie and care wherewith your holiness writes, doth require. It was an unspeakable pleasure to mee to read the generous exploits of the kings my predecessors, to whose memorie, posteritie hath not given those praises and elogies of honor as were due to them. I do believe that your Holiness hath set their examples before my eies, to the end that I might imitate them in all my actions; for in truth they have often exposed their estates and lives for the exaltation of the holie chair, and the courage with which they have assaulted the enemies of the cross of Jesus Christ hath not been less then the care and thought which I have, to the end that the peace and intelligence which hath hitherto been wanting in Christendom, might bee bound with the bond of a true concord; for like as the common enemie of peace watcheth alwaies to put hatred and dissention between the christian princes, so I believ that the glory of God requires that we should indeavor to unite them; and I do not esteem it a greater honor to bee descended from so great princes, then to imitate them in the zeal of their pietie. In which it helps mee verie much to have known the mind and will of our thrice honoured lord and father, and the holie intentions of his catholick majestie to give a happie concurrence to so laudable a design; for it grieves him extremely to see the great evil that grows from the division of christian princes, which the wisdom of your Holiness foresaw, when it judged the marriage which you pleased to design between the Infanta of Spain and my self, to bee necessarie to procure so great a good; for 'tis verie certain, that I shall never bee so extremely affectionate to anie thing in the world, as to endevor alliance with a prince, that hath the same apprehensions of the true religion with myself; therefore, I intreat your Holiness to believ that I have been alwaies verie far from incouraging novelties, or to be a partizan of anie faction against the catholick apostolick Roman religion; but, on the contrarie, I have sought all occasions to take away the suspicion that might rest upon mee, and that I will imploie my self for the time to com, to have but one religion and one faith, seeing that we all believ in one Jesus Christ. Having resolved in myself to spare nothing that I have in the world, and to suffer all manner of discommodities, even to the hazarding of my estate and life, for a thing so pleasing unto God, it rests onely that I thank your Holiness for the permission which you have been pleased to afford me, and that I praie God to give you a blessed health and his glorie, after so much travel which your Holiness takes within his church

Signed,

CHARLES STEWARD.

Coronation of Charles the Second, King of Scotland, England, France, and Ireland, as it was acted and done at Scoone, the first Day of January, 1651.

1 CHRON. 79. 23.—Then Solomon sate on the throne of the Lord as king, instead of David his father, and prospered, and all Israel obeyed him.
PROV. 20. 8. A king that sitteth in the throne of judgment scattereth away all evil with his eyes.
PROV 25. 5.—Take away the wicked from before the king, and his throne shall be established in righteousness.

Aberdene: Imprinted by James Brown, 1651.

The following account of the coronation at Scone, when the Scottish clergy, content to have established their superiority over the crown, were in the mood of admitting Charles II. to some external marks of dignity, affords abundant illustration of Clarendon's account of his reception and treatment in the hereditary kingdom of his ancestors.

" The king was received by the Marquis of Argyle with all the outward respect imaginable; but within two days after his landing, all the English servants he had of any quality were removed from his person, the Duke of Buckingham only excepted.

" He was not present in their councils; nor were the results thereof communicated to him; nor was he in the least degree communicated with in any part of the government; yet they made great shew of outward reverence to him; and even the chaplains, when they used rudeness and barbarity in their reprehensions and reproaches, approached him still with bended knees, and in the humblest postures. There was never a better courtier than Argyle, who used all possible address to make himself gracious to the king, entertained him with very pleasant discourses, with such insinuations, that the king did not only very well like his conversation, but often believed that he had a mind to please and gratify him; but then, when his majesty made any attempt to get some of his servants about him, or to reconcile the two factions, that the kingdom might be united, he gathered up his countenance and retired from him, without ever yielding to any one proposition that was made to him by his majesty. In a word, the king's table was well served: there he sate in majesty, waited upon with decency: he had good horses to ride abroad to take the air, and was then well attended; and in all public appearances seemed to want nothing that was due to a great king. In all other respects, with power to oblige or gratify any man, to dispose or order any thing, or himself to go to any other place than was assigned to him, he had nothing of a prince, but might very well be looked upon as a prisoner."—CLARENDON'S *History*, III. 286.

It is singular that, on the very day of Charles's coronation, the themes on which the clergy who officiated enlarged with most unction, were the backslidings and covenant-breaking of his grandfather and father, with the guilt of encouraging sectaries and Erastians, and the solemn burden, that he should beware, " *Ne quid detrimenti ecclesia capiat.*"

Coronation of Charles the Second, King of Scotland, England, France, and Ireland, done at Scoone, the first Day of January, 1651.

First the king's majestie, in a princes robe, was conducted from his bed chamber, by the constable on his right hand, and the marishall on his left hand, to the chamber of presence, and there was placed in a chaire, under a cloath of state, by the Lord of Angus, chamberlayne appointed by the king for that day, and there, after a little repose, the noblemen, with the commissioners of barons and burroughes, entered the hall, and presented themselves before his majesty.

There-after, the lord chancellour spoke to the king to this purpose: Sir, your good subjects desire you may be crowned, as the righteous and lawful heire of the crown of this kingdome; that you would maintain religion as it is presently professed and established, conform to the nationall covenant, league and covenant, and according to your declaration at Dumfermling in August last; also that you would be graciously pleased to receive them under your highnesse protection, to govern them by the laws of the kingdome, and to defend them in their rights and liberties, by your royall power, offering themselves in most humble manner to your majestie, with their vowes to bestow land, life, and what else is in their power, for the maintainance of religion, for the safety of your majesties sacred person, and maintainance of your crowne, which they intreat your majestie to accept, and pray Almightie God that for many years you may happily enjoy the same.

The king made this answer: I do esteeme the affections of my good people more then the crownes of many kingdomes, and shall be ready, by Gods assistance, to bestow my life in their defence, wishing to live no longer then I may see religion and this kingdome flourish in all happiness.

Thereafter the commissioners of burroughes and of barrones, and the noble men, accompanied his majestie to the kirk of Scoone, in order and rank according to their qualitie, two and two.

The spurres being carried by the Earle of Eglinton.

Next, the sword by the Earle of Rothes.

Then the scepter by the Earle of Craufurd and Lindesay.

And the crown by the Marques of Argyle, immediately before the king.

Then came the king, with the great constable on his right hand, and the great marishall on his left hand, his train being carried by the Lord Erskine, the Lord Montgomery, the Lord Newbottle, and the Lord Machlene, four earles eldest sonnes, under a canopy of crimson velvet, supported by six earles sonnes, to wit, the Lord Drummond, the Lord Carnegie, the Lord Ramsay, the Lord Johnstoun, the Lord Brechin, the Lord Yester, and the six carriers supported by six noble-men's sonnes.

Thus the kings majestie entereth the kirk.

The kirk being fitted and prepared with a table whereupon the honours were layed, and a chaire in a fitting place for his majesties hearing of sermon, over against the minister, and another chaire on the other side, where he sate when he received the crowne, before which there was a bench decently covered, as also seats about for the noblemen, barons, and burgesses.

And there being also a stage in a fit place erected of 14 foot square, about four foot high from the ground, covered with carpets, with two stairs, one from the west, and another to the east, upon which great stage there was another little stage erected, som two foot high, ascending by two steps, on which the throne or chaire of state was set

The kirk thus fittingly prepared, the kings majestie entereth the same, accompanied as aforesaid, and first setteth himself in his chaire, for hearing of sermon.

All being quietly composed unto attention, Master Robert Douglas, moderator of the commission of the Generall Assemblie, after incalling upon God by prayer, preached the following sermon.

Sermon preached at Scoone, Jan. first, 1651, at the coronation of Charles the Second, King of Scotland, England, France, and Ireland, by Master Robert Douglas, Minister at Edinburgh, Moderator of the Commission of the General Assemblie.

2 KING. 11. vers. 12. 17.—And he brought forth the kings sonne, and put the crowne upon him, and gave him the testimony, and they made him king, and anointed him, and they clapt their hands, and said, God save the king.

And Jehojada made a covenant between the Lord, and the king, and the people, that they should be the Lord's people; between the king also and the people.

In this text of Scripture you have the solemne enthroning of Joash, a young king, and that in a very troublesome time, for Athaliah, the mother of Ahaziah, had cruelly murthered the royall seed, and usurped the kingdome by the space of six years. Onely this young prince was preserved by Jehosheba, the sister of Ahaziah, and the wife of Jehojada, the high priest, being hid with her in the house of the lord all that time.

Good interpreters do conjecture, though Joash be called the son of Ahaziah, that he was not his son by nature, but by succession to the crown. They say that the race of Solomon ceased here, and the kingdom came to the posteritie of Nathan, the son of David; because, 2 Chron. 22. 9, it is said, "The house of Ahaziah had no power to keep the kingdom," which they conceive to be for the want of children in that house; and because of the absurditie and unnaturalnesse of the fact, that Athaliah, the grandmother, should have cut off her sons children. I shall not stand upon the matter, only I may say, if they were Ahaziah his own children, it was a most unnaturall and cruell fact for Athaliah to cut off her own posterity.

For the usurpation there might have been two motives: 1. It seemeth, that when Ahaziah went to battell, Athaliah was left to govern the kingdome, and her son Ahaziah being slain before his return, she thought the government sweet, and could not part with it; and because the royall seed stood in her way, shee cruelly destroyed them, that shee might raign with the greater freedom. 2. Shee was earnest to set up a false worship, even the worship of Baal, which shee thought could not be so well done, as by cutting off the royall race, and getting the sole power in her hand, that shee might do what shee pleased.

The businesse you are about this day is not unlike. You are to invest a young king in the throne in a very troublesome time; and wicked men have risen up, and usurped the kingdom, and put to death the late king most unnaturally. The like motives seem to have prevailed with them. 1. These men, by falshood and dissimulation, have gotten power in their hands, which to them is so sweet that they are unwilling to part with it; and because the king and his seed stood in their way, they have made away the king, and disinherited his children, that the sole power might be in their hand. 2. They have a number of damnable errors and a false worship to set up, and intend to take away the ordinances of Christ and government of his kirk. All this cannot be done, unlesse they have the sole power in their hand, and this they cannot have till the king and his posteritie be cut off. But I leave this, and come to the present

solemnitie. There is a prince to be inthroned; good Jehojada will have the crown put upon his head.

It may be questioned, why they went about this coronation in a time of so great hazard, when Athalia had reigned six years. Had it not been better to have defate Athaliah, and then to have crowned the king? Two reasons may be rendered why they delay not the coronation. 1. To crown the king was a duty they were bound to. Hazard should not make men leave their duty. They did their duty, and left the successe to God. 2. They crowned the young king, to endeare the people's affections to their own native prince, and to alienate their hearts from her that had usurped the kingdom. If they had delayed, the king being known to be preserved, it might have brought on, not only complyance with her, but also subjection to her government, by resting in it, and being content to lay aside the righteous heir of the crown.

The same is observed in our case, and many wonder that you should crown the king in a dangerous time, when the usurpers have such power in the land. The same reasons may serve to answer for your doing. 1. It is our necessary duty to crown the king upon all hazards, and to leave the successe to God. 2. It appeareth now it hath been too long delayed. Delay is dangerous, because of the compliance of some, and treacherie of others. If it shall be delayed longer, it is to be feared that the most part shall sit down under the shadow of the bramble, the destroying usurpers.

I come to the particular handling of the present text, and to speak from it to the present time. I have read the 12 and 17 vers., because of these two which meet together, the crowning of a king, and his renewing the covenant. Amongst many particulars, which may be handled from the text, I shall confine myself to these five: 1. The crown. "He put the crown upon his head." 2. The testimonie. "He gave him the testimonie." 3. The anointing. "They anointed him." These three are in the 12 vers. As for that which is spoken of the peoples joy, we shall give it a touch when we come to the peoples duty. 4. The covenant between God, and the king and the people. "Jehojada made a covenant between God, and the king and the people, that they should be the Lords people." 5. The covenant between the king and the people. "Between the king also and the people." Both in the 17 vers.

First. The crown is put upon his head. A crown is the most excellent badge of royall majestie. To discourse on crownes in a state way I shall leave unto states-men; and lay only these three before you of the crown.

I. In putting on of the crown it would be well fastened; for kings crownes are often times tottering, and this is a time wherein they totter. There are two things which make kings crownes to totter,—great sins and great commotions and troubles. Take heed of both.

1. There are many sins upon our king and his family. Sinne will make the surest crown that ever men set on to totter. The sinnes of former kings have made this a tottering crown. I shall not insist here, seeing there hath been a solemn day of humiliation through the land, on Thursday last, for the sinnes of the royall family. I wish the Lord may bless it; and desire the king to be truely humbled for his own sinnes, and the sinnes of his fathers house, which have been great. Beware of putting on these sinnes with the crown; for if you put them on, all the well wishers to a king in the three kingdomes will not be able to hold on the crown, and keep it from tottering, yea, from falling. Lord, take away the controversie with the royall family, that the crown may be fastened sure upon the kings head, without falling or tottering.

2. Troubles and commotions in a kingdome make crownes to totter. A crown at the best, and in the most calm times, is full of trouble, which, if it were well weighed

by men, there would not be such hunting after crownes. I read of a great man, who, considering the trouble and care that accompanied a crown, said he would not take it up at his foot, though he might have it for taking. Now if a crown at the best be so full of troubles, what shall one think of a crown at the worst, when there are so great commotions, wherein the crown is directly aimed at? Surely it must be a tottering crown at the least, especially when former sins have brought on these troubles. As the remedie of the former is true humiliation and turning unto God, so the remedie of the latter is, Psal. 21. 3. (speaking of Davids crown,) "Thou settest a crown of pure gold upon his head." God set on Davids crown, and therefore it was settled, notwithstanding of many troubles. Men may set on crownes, and they may be thrown off again; but when God setteth them on they will be fast. Enemies have touched the crowne of our king, and casten it off in the other kingdom, and have made it totter in this kingdom. Both the king who is to be crowned, and you who are to crown him, should deal earnestly with God, to set the crown on the king's head, and to keep it on against all the commotions of this cruel generation.

2. A king should esteem more of the people he reigneth over then of his crown; kings use to be so taken up with their crownes, that they despise their people. I would have a king following Christ, the king of his people, who sayeth of them, Isai. 62. 3. "Thou shalt be a crown of glory in the hand of the Lord, and a royall diademe in the hand of thy God." Christ accounteth his people his crown and diademe; so should a king esteem the people of the Lord, over whom he ruleth, to be his crown and diademe: take away the people, and a crown is but an empty symbole.

3. A king, when he getteth his crown on his head, should think at the best it is but a fading crown. All the crownes of kings are but fading crownes: Therefore they should have an eye upon that "crown of glory that fadeth not away," 1 Pet. 5. 4. And upon a "kingdom that cannot be shaken," Heb. 12. 28. That crowne and kingdome belongeth not to kings as kings, but unto believers; and a believing king hath this comfort, that when "he hath endured a while, and been tryed, he shall receive the crown of life, which the Lord hath promised to them that love him."

II. The second thing in this solemnity is the testimony. By this is meant the law of God, so called, because it testifieth of the minde and will of God. It was commanded, Deut. 17, 18, 19. "When the king shall sit upon the throne of his kingdome, he shall write him a coppie of the book of the law, and it shall be with him, that he may read therein all the dayes of his life." The king should have the testimony for these three main uses:

1. For his information in the wayes of God, Deut. 17. 19. This use of the kings having the book of the law is expressed, "that he may learn to fear the Lord his God." The reading of other books may do a king good for government, but no book will teach him the way to salvation, but the book of God. Christ biddeth, "search the Scriptures, for in them ye think to have eternall life, and they testifie of me," John 5. 39. He is a "blessed man who meditateth in the law of the Lord day and night," Psal. 1. 1, 2. King David was well acquainted herewith, as appeareth, Psal. 119. Kings should be well exercised in Scripture. It is reported of Alphonsus, King of Arragon, that he did read the Bible fourteen times, with glosses thereupon. I recommend to the king to take some houres for reading holy Scripture; it will be a good mean to make him acquaint with Gods minde, and with Christ a Saviour.

2. For his direction in government; kings read bookes that they may learn to govern well, which I condemn not, but all the bookes a king can read will not make him govern to please God as this booke. I know nothing that is good in government but a king may learn it out of the book of God. For this cause, Joshua is commanded, Jos. 1. 8. "That the booke of the law shall not depart out of his mouth;" and he

is commanded to "doe according to all that is written therein." He should not only do himself that which is written in it, but do and govern his people according to all that is written in it. King David knew this use of the testimony, who said, Psal. 119. 24. "Thy testimonies are my delight and my councellours." The best councels that ever a king getteth are in the booke of God: Yea, the testimonies are the best and surest counsellours; because although a kings councellours be never so wise and trustie, yet they use not to be so free with a king as they ought; but the Scripture will tell kings very freely both their sin and their duty.

3. For preservation and custodie. The king is *Custos utriusque tabulæ*, the keeper of both tables. Not that he should take upon him the power either to dispense the word of God, or to dispense with it: But that he should preserve the word of God, and true religion according to the word of God, pure, intire, and uncorrupted, within his dominions, and transmit them so to posterity; and also be carefull to see his subjects observe both tables, and to punish the transgressors of the same.

III. The third thing in this solemnitie is the anoynting of the king. The anoynting of kings was not absolutlie necessary under the Old Testament; for we read not that all the kings of Judah and Israel were anoynted. The Hebrewes observe, that anoynting of kings was used in three cases; 1. When the first of a family was made king, as Saul, David. 2. When there was a question for the crown, as in the case of Solomon and Adonijah. 3. When there was an interruption of the lawfull succession by usurpation, as in the case of Joash there is an interruption by the usurpation of Athaliah, therefore he is anointed. If this observation hold, as it is probable, then it was not absolutely necessary under the Old Testament, and therefore far lesse under the New.

Because it may be said, that in our case there is an interruption by usurpation, let it be considered, that the anointing under the Old Testament was typicall, although all kings were not types of Christ, yet the anointing of kings, priests, and prophets, was typicall of Christ and his offices. But Christ being now come, all these ceremonies cease; and therefore the anointing of kings ought not to be used in the New Testament.

If it be said anointing of kings hath been in use amongst Christians, not only papists, but protestants, as in the kingdome of England, and our late king was anointed with oyl, it may be replyed, they who used it under the New Testament took it from the Jews without warrand. It was most in use with the Bishops of Rome, who, to keep kings and emperours subject to themselves, did swear them to the pope when they were anointed, (and yet the Jewish priests did never swear kings to themselves.) As for England, although the pope was casten off, yet the subjection of kings to bishops was still retained, for they anointed the king, and sware him to the maintenance of their prelaticall dignitie. They are here who were witnesses at the coronation of the late king. The bishops behoved to perform that rite, and the king behoved to be sworn to them. But now, by the blessing of God, poperie and prelacie are removed. The bishops, as limmes of antichrist, are put to the doore; let the anointing of kings with oyl go to the doore with them, and let them never come in again.

The anointing with materiall oyl maketh not a king the anointed of the Lord, for he is so without it. He is the anointed of the Lord, who by divine ordinance and appointment is a king. Is. 45. 1. God calleth Cyrus his anointed, yet we read not that he was anointed with oyl. Kings are the anointed of the Lord, because, by the ordinance of the Lord, their authority is sacred and inviolable. It is enough for us to have the thing, though we want the ceremonie, which being laid aside, I will give some observations of the thing.

1. A king being the Lords anointed, should be thinking upon a better unction,

even that spiritual unction wherewith believers are anointed, which you have, 1 John 2. 27. "The anointing ye have received of him abideth in you," and 2 Cor. 1. 21. "He that hath anointed us is God, who hath also sealed us." This anointing is not proper to kings, but common to believers. Few kings are so anointed. A king should strive to be a good Christian, and then a good king: The anointing with grace is better then the anointing with oyl. It is of more worth for a king to be the anointed of the Lord with grace, then to be the greatest monarch of the world without it.

2. This anointing may put a king in minde of the gifts wherewith kings should be endued, for discharge of their royall calling; for anointing did signifie the gifts of office. It is said of Saul, when he was anointed king, 1 Sam. 10. 9. "God gave him another heart;" and cap. 11. 6. "The spirit of God came upon him;" it is meant of a heart for his calling, and a spirit of abilitie for government. It should be our desire this day, that our king may have a spirit for his calling, as the spirit of wisdome, fortitude, justice, and other princely enduements.

3. This anointing may put subjects in minde of the sacre-dues of the authority of a king. He should be respected as the Lords anointed. There are diverse sorts of persons that are enemies to the authority of kings, as, 1. Anabaptists, who deny there should be kings in the New Testament. They will have no king nor civil magistrate. 2. The late Photinians, who speak respectfully of kings and magistrates; but they take away from them their power, and the exercise of it in the administration of justice. 3. These who rise against kings in open rebellion, as Absalom and Sheba, who said, "What have we to do with David, the sonne of Jesse? To our tents, O Israel." 4. They who do not rebell openly, yet they despise a king in their heart, like the sonnes of Beliall, 1 Sam. 10. last. Who said of Saul, after he was anointed king, "Shall this man save us? And they despised him, and brought him no presents."

1. All these meet in our present age. 1. Anabaptists, who are against the being of kings, are very rife; you may finde, to our great grief, a great number of them in that armie that hath unjustly invaded the land; who have trampled upon the authority of kings. 2. There are also of the second sort, who are secretly Photinians in this point; they allow of kings in profession, but they are against the exercise of their power in the administration of justice. 3. A third sort are in open rebellion, even all that generation which are risen up, not only against the person of a king, but against kingly government. 4. There is a fourth, who professe they acknowledge a king, but despise him in their heart, saying, "Shall this man save us?" I wish all had Davids tendernesse, whose heart did smite him when he did but cut off the lap of Sauls garment, that we may be far from cutting off a lap of that just power and greatnesse, which God hath allowed to the king, and we have bound ourselves by covenant not to diminish.

I have gone through the three particulars contained in the 12th verse. I come to the other two in the 17th verse, which appertain also to this dayes work; for our king is not only to be crowned, but to renew a covenant with God and his people, and to make a covenant with the people. Answerable hereto there is a twofold covenant in the words, one between God, and the king and the people: God being the one partie, the king and the people the other; another between the king and the people, the king being the one party, the people the other.

The covenant with God is the fourth particular propounded to be spoken of. The summe of this covenant ye may finde, 2 Kings 23. 3. In Josiah his renewing the covenant, "To walk after the Lord, and keep his commandments and testimonies, with all the heart, and to perform the words of the covenant." The renewing of the covenant was after a great detection from God, and the setting up of a false worship. The king and the people of God bound themselves before the Lord to set up the

true worship, and to abolish the false. Scotland hath a preference in this before other nations. In time of defection, they have renewed a covenant with God, to reform all; and because the king, after a great defection in that family, is to renew the covenant, I shall mention some particulars from the league and covenant.

1. We are bound to maintain the true reformed religion, in doctrine, worship, discipline, and government, established in this kingdome, and to endeavour the reformation of religion in the other two kingdomes, according to the word of God, and the example of the best reformed kirks. By this article the king is obliged, not only to maintain religion as it is established in Scotland, but also to endeavour the reformation of religion in his other kingdomes. The king would consider well, when it shall please God to restore him to his government there, that he is bound to endeavour the establishment of the work of reformation there, as well as to maintain it here.

2 According to the second article, the king is bound, without respect of persons, to extirpate poperie, prelacie, superstition, heresie, schisme, and prophaneness, and whatsoever shall be found contrary to sound doctrine, and the power of godlinesse. And therefore poperie is not to be suffered in the royall familie, nor within his dominions; prelacie, once plucked up by the rootes, is not to be permitted to take roote again; all heresie and errour whatsoever must be opposed by him, to the uttermost of his power; and by the covenant the king must be far from toleration of any false religion within his dominions.

3. As the people are bound to maintain the kings person and authority, in the maintenance of the true religion and liberties of the kingdom; so the king is bound with them to maintain the rights and priviledges of the parliament, and liberties of the subjects, according to the third article.

4. We are bound to discover and to bring unto condigne punishment, all such as have been or shall be incendiaries, malignants, or evill instruments, in hindering the reformation of religion; dividing the king from the people, or one of the kingdomes from another, or making any faction or parties amongst the people. Hereby the king is bound to have an eye upon such, and neither allow of them nor comply with them, but to concur according to his power, to have them censured and punished, as is expressed in the fourth article.

I shall summe up all this, that a king entering in covenant with God, should do as kings did of old, when they entered in covenant; they and their people went on in the work of reformation, as appeareth here, verse 18. "And all the people of the land went into the house of Baal, and brake it down," &c. And godly Josiah, when he entered in covenant, made a thorow reformation. There is a four-fold reformation in Scripture, and contained in the league and covenant: 1. A personall reformation. 2. A familie reformation. 3. A reformation of judicatories. 4. A reformation of the whole land. Kings have had their hand in all the four, and therefore I recommend them to our king.

1. A personall reformation. A king should reforme his own life, that he may be a patterne of godlinesse to others, and to this he is tyed by the covenants. The godly reformers of Judah were pious and religious men. A king should not follow Machiavell his counsel, who requireth not that a prince should be truely religious, but sayeth that a shadow of it, and externall simulation, are sufficient. A divelish counsell; and it is just with God to bring a king to the shadow of a kingdome, who hath but the shadow of religion. We know that dissembling kings have been punished of God; and let our king know that no king but a religious king can please God. David is highly commended for godlinesse, Hezekiah, a man eminent for piety, Josiah, a young king, commended for the tendernesse of his heart, when he heard the law of the Lord read; he was much troubled before the Lord, when he heard the judgements threatned

against his fathers house, and his people. It is earnestly wished that our kings heart may be tender, and be truly humbled before the Lord for the sinnes of his fathers house and of the land, and for the many evils that are upon that familie and upon the kingdom.

2. A familie reformation. The king should reform his family, after the example of godly things. Asa, when he entred in covenant, spared not his mothers idolatrie. The house of our king hath been much defiled by idolatrie. The king is now in covenant, and, to renew the covenant, let the royall familie be reformed; and that it may be a religious familie, wherein God will have pleasure, let it be purged not only of idolatrie, but of prophanity and loosenesse, which hath abounded in it. Much hath been spoken of this matter, but little hath been done in it. Let the king and others, who have charge in that family, think it lyeth upon them as a dutie to purge it. And if you would have a family well purged and constitute, take David for a pattern, in the purgation and constitution of his, Psal. 101. "The froward heart, wicked persons and slanderers, he will have far from him; but his eyes are upon the faithfull of the land, that they may dwell with him." If there be a man better then another in the land, he should be for the king and his family: Ye may extend this reformation to the court. A prophane court is dangerous for a king; it hath been observed as a provoking sin in England, which hath drawn down judgment upon king and court, as appeareth this day. It is to be wished that such were in the court as David speaketh of in that Psalm. Let the king see to it, and resolve with David, Psalm 101. 7. "That hee who worketh deceit shall not dwell within his house, and he who telleth lies shall not tarrie in his sight."

3. Reformation in judicatories. It would be carefully seen to that judicatories be reformed, and that men fearing God and hating covetuousnesse may be placed in them. A king in covenant should do as Jehoshaphat did, 2 Chron. 19. 5, 6, 7. "He set judges in the land, and said, take heed what ye do; ye judge not for men, but for the Lord who is with you in judgement: Wherefore now let the fear of the Lord be before you," &c.

4. The reformation of the whole land. The kings eye should be upon it, 2 Chron. 19. 4. "Jehoshaphat went out thorow the people, from Beersheba to Mount Ephraim, and brought them back to the Lord God of their fathers." Our land hath great need of reformation; for there is a part of it that hath scarce ever yet found the benefite of reformation; they are lying without the gospel. It will be a good work for a covenanted king to have a care that the gospel may be preached through the whole land; care also would be taken that they who have the gospel may live suteably thereto.

If a king would be a thorough reformer, he must be reformed himself, otherwayes he will never lay reformation to heart. To make a king a good reformer. I wish him these qualifications, according to the truth and in sincerity, wherewith they report Trajan the emperour to have been endued; he was, 1. Devote at home. 2. Couragious in warre. 3. Just in his judicatures. 4. Prudent in all his affaires. True pietie, fortitude, justice, and prudency, are notable qualifications in a prince, who would reform a kingdome, and reform well.

V. I come now to the fifth and last particular, and that is the covenant made between the king and the people. When a king is crowned and received by the people, there is a covenant or mutuall contract between him and them, containing conditions mutually to be observed. Time will not suffer to insist upon many particulars: I shall only lay before you three: 1. It is clear from this covenant, that a king hath not absolute power to do what he pleaseth; he is tyed to conditions by vertue of a covenant. 2. It is clear from this covenant, that a people are bound to obey their king

in the Lord. 3. I shall present the king with some directions for the right government of the people, who are bound to obey.

I. It is clear that the kings power is not absolute, as kings and flattering courteours apprehend. A kings power is a limited power by this covenant, and there is a threefold limitation of the kings power.

1. In regard of subordination. There is a power above his, even Gods power, whom he is obliged to obey, and to whom he must give an accompt of his administration. Yee heard yesterday that text, "By me kings raign," Prov. 8. 15. Kings have not only their crownes from God, but they must raign according to his will, which is clear from Rom. 13. 4. Hee is called the minister of God. Hee is but Gods servant. I need not stay upon this. Kings and all others will acknowledge this limitation.

2. In regard of laws. A king is sworn at his coronation to rule according to the standing received laws of the kingdome. The laws he is sworn to limite him that he cannot do against them, without a sinfull breach of this covenant between the king and the people.

3. In regard of government. The totall government is not upon a king. He hath counsellours, a parliament, or estates, in the land, who share in the burthen of government. No king should have the sole government. It was never the mind of these, who received a king to rule them, to lay all government upon him, to do what he pleaseth, without controlement. There is no man alone able to govern all. The kingdome should not lay that upon one man, who may easily miscarie. The estates of the land are bound in this contract to bear a burthen with him.

These men who have flattered kings to take unto themselves an absolute power to do what they please, have wronged kings and kingdomes. It had been good that kings of late had carried themselves so as this question of kings power might never have come in debate, for they are great losers thereby. Kings are very desirous to have things spoken and written to hold up their arbitrary and unlimited power; but that way doth exceedingly wrong them. There is one, a learned man, I confesse, who hath written a book for the maintainance of the absolute power of kings, called *Defensio Regia,* whereby he hath wronged himself in his reputation, and the king in his government. As for the fact in taking away the life of the late king (whatever was Gods justice in it,) I do agree with him to condemn it, as a most injust and horrid fact upon their part who did it. But when he cometh to speak of the power of kings, in giving unto them an absolute and illimited power, urging the damnable maxime, *quod libet licet,* he will have a king to do what he pleaseth *impune,* and without controlement. In this I cannot but dissent from him.

In regard of subordination, some say that a king is comptable to none but God. Do what he will, let God take order with it. This leadeth kings to atheisme; let them do what they please, and take God in their own hand. In regard of laws, they teach nothing to kings but tyrannie; and in regard of government, they teach a king to take an arbitrarie power to himself, to do what he pleaseth without controlement. How dangerous this hath been to kings is clear by sad experience. Abuse of power and arbitrary government hath been one of God's great controversies with our kings predecessours. God in his justice, because power hath been abused, hath thrown it out of their hands; and I may confidently say that Gods controversie with the kings of the earth is for their arbitrary and tyrannicall government.

It is good for our king to learn to be wise in time, and know that he receiveth this day a power to govern, but a power limited by contract, and these conditions he is bound by oath to stand to. Kings are deceived who think that the people are ordained for the king, and not the king for the people. The Scripture showeth the contrary,

Rom. 13. 4. "The king is the minister of God, for the people's good." God will not have a king in an arbitrarie way to encroach upon the possessions of subjects. Ezeh. 45. 7. 8. "A portion is appointed for the prince;" and it is said, "My princes shall no more oppresse my people; and the rest of the land shall he give unto the house of Israel, according to their tribes." The king hath his distinct possessions and revenews from the people; he must not oppresse and do what he pleaseth. There must be no tyrannie upon the throne.

I desire not to speak much of this subject. Men have been very tender in medling with the power of kings; yet seeing these dayes have brought forth debates concerning the power of kings, it will be necessary to be clear in the matter. Extremities would be shunned. A king should keep within the bounds of the covenant made with the people, in the exercise of his power; and subjects would keep within the bounds of this covenant, in regulating that power. Concerning the last, I shall propound these three to your consideration:

1. A king abusing his power to the overthrow of religion, laws, and liberties, which are the very fundamentalls of this contract and covenant, may be controled and opposed; and if he set himself to overthrow all these by arms, then they who have power, as the estates of a land, may and ought to resist by armes, because he doth, by that opposition, break the very bonds, and overthroweth all the essentials, of this contract and covenant. This may serve to justify the proceedings of this kingdom against the late king, who in an hostile way set himself to overthrow religion, parliaments, laws, and liberties.

2. Every breach of covenant, wherein a king falleth, after he hath entered in covenant, doth not dissolve the bond of the covenant. Neither should subjects lay aside a king for every breach, except the breaches be such as overthrow the fundamentalls of the covenant with the people. Many examples of this may be brought from Scripture. I shall give but one. King Asa entered solemnly in covenant with God and the people, 2 Chron. 15. After that he falleth in grosse transgressions and breaches, 2 Chron. 16. He associated himself, and entered in league with Benhadad, King of Syria, an idolater; he imprisoned Hanani, the Lords prophet, who reproved him, and threatened judgement against that association; and, at the same time, he oppressed some of the people; and yet, for all this, they neither lay him aside, nor count him an hypocrite.

3. Private persons should be very circumspect about that which they do in relation to the authority of kings. It is very dangerous for private men to meddle with the power of kings, and the suspending of them from the exercise thereof. I do ingenuously confesse that I find no example of it. The prophets taught not such doctrine to their people, nor the apostles, nor the reformed kirks. Have ever private men, pastours or professours, given in to the estates of a land as their judgement, unto which they resolve to adhere, That a king should be suspended from the exercise of his power. And if we look upon these godly pastours, who lived in King James his time, of whom one may truely say, more faithfull men lived not in these last times; for they spared not to tell the king his faults to his face, yea, some of them suffered persecution for their honestie and freedome; yet we never read, nor have heard, that any of these godly pastours joyned with other private men, did ever remonstrate to parliament, or estate, as their judgement, that the king should be suspended from the exercise of his royall power.

II. It is clear from this covenant, that people should obey their king in the Lord; for as the king is bound by the covenant to make use of his power to their good, so they are bound to obey him in the Lord in the exercise of that power. About the peoples duty to the king take these four observations:

1. That the obedience of the people is in subordination to God; for the covenant is first with God, and then with the king. If a king command any thing contrary to the will of God, in this case, Peter sayeth, "It is better to obey God then man." There is a line drawn from God to the people. They are lowest in the line, and have magistrates inferiour and supream above them, and God above all. When the king commandeth the people that which is lawfull and commanded by God, then he should be obeyed, because he standeth in the right line under God, who hath put him in his place; but if he command that which is unlawfull and forbidden of God, in that he should not be obeyed to do it, because he is out of his line. That a king is to be obeyed with this subordination, is evident from Scripture. Take one place for all, Rom. 13. At the beginning, yee have both obedience urged to superiour powers, as the ordinance of God, and damnation threatened against those who resist the lawfull powers.

It is said by some, that many ministers in Scotland will not have King Jesus, but King Charles, to raign. Faithfull men are wronged by such speeches. I do not understand these men: for if they think that a king and Jesus are inconsistent, then they will have no king. But I shall be far from entertaining such thoughts of them. If they think the doing a necessary duty for King Charles is to preferre his interest to Christs, this also is an errour. Honest ministers can very well discern between the interest of Christ and of the king. I know no minister that setteth up King Charles with prejudice to Christ's interest.

There are three sorts of persons who are not to be allowed in relation to the kings interest. 1. Such as have not been content to oppose a king in an evill course, as they might lawfully doe, but, contrary to covenant, vows, many declarations, have cast off kings and kingly government. These are the sectaries. 2. They who are so taken up with a king, as they preferre a kings interest to Christs interest, which was the sinne of our engagers. 3. They who will have no duty done to a king, for fear of prejudging Christs interest. These are to be allowed who urge duty to a king in subordination to Christ.

I shall desire that men be reall, when they make mention of Christs interest; for these three mentioned professe and pretend the interest of Christ. The sectaries cover their destroying of kings with Christs interest, whereunto, indeed, they have had no respect, being enemies to his kingdome, and experience hath made it undeniable. The engagers alledged they were for Christ's interest: but they misplaced it. Christs interest should have gone before, but they drew it after, the interest of a king, which evidenced their want of due respect to Christs interest. As for the third, who delay duty for fear of preferring the kings interest to Christ, I shall not take upon me to judge their intentions. I wish they may have charity to these, who think they may do duty to a king in subordination to Christ; yea, that they ought and should do duetie, whatever mens fears be of the prejudice may follow.

If to be against the suspending of the king from the exercise of his power, and to be for the crowning of the king, according to the publick faith of the kingdomes, he first performing all that kirk and state required of him, in relation to religion and civile liberties; if this be, I say, to preferre a king to Christ, let all men that are unbyassed be judges in the case. We shall well avow that we crown a king in subordination to God, and his interest in subordination to Christs, which we judge not only agreeable to the word of God, but also that we are bound expressly in the covenant to maintain the king in the preservation and defence of the true religion and liberties of the kingdom, and not to diminish his just power and greatnesse.

2. That the covenant between God, and the king, and the people, goeth before the

covenant between the king and the people; which showeth that a peoples entring covenant with God doth not lessen their obedience and allegiance to the king, but increaseth it, and maketh the obedience firmer. Because we are in covenant with God, we should the more obey a covenanted king. It is a great errour to think that a covenant diminisheth obedience: it was ever thought cumulative; and indeed true religion layeth strict tyes upon men in doing of their duty. Rom. 13. 5. "We must needs be subject, not only for wrath, but also for conscience sake." A necessity to obey is laid upon all. Many subjects obey for wrath, but the godly obey for conscience sake.

3 That a king covenanted with God should be much respected by his subjects. They should love him. There is an inbred affection in the hearts of the people to their king. In the 12 vers. it is said, that "the people clapped their hands for joy, and said, God save the king." They had no sooner seen their native king installed in his kingdome, but they rejoiced exceedingly, and saluted him with wishes of safety. Whatever be mens affections or respects this day to our king, certainly it is a duty lying on us, both to pray for and rejoice in his safety. The very end that God hath in giving us kings maketh this clear, 1 Tim. 2. 1, 2. "That we may live under them in godlinesse and honestie;" and therefore prayers and supplications are to be made for all kings, even for these that are not in covenant, much more for these that are in covenant. Ye are receiving this day a crowned covenanted king. Pray for saving grace to him, and that God would deliver him and us out of the hands of these cruell enemies, and blesse his government, and cause us to live a quiet and peaceable life under him, in all godlinesse and honestie.

4. That as the king is solemnly sworn to maintain the right of the subjects against enemies, and is bound to hazard his life and all that he hath for their defence, so the people are also bound to maintain his person and authority, and to hazard life and all that they have in defending him.

I shall not take the question in its full latitude, taking in what a people are bound to, in persuing of a kings right, in another nation, which is not our present question. Our question is, what a people should do, when a kingdom is unjustly invaded by a forraigne enemy, which seeks the overthrow of religion, king, and kingdome? Surely if men be tyed to any duty to a king and kingdom, they are tyed in this case. I have two sorts of men to meet with here, who are deficient in doing this covenanted duty. 1. These who do not act against the enemy. 2. These who do act for the enemy.

I. The first I meet with are they who act not, but ly by, to behold what will become of all. Three sorts of men act not for the defence of an invaded kingdome. 1. These who withdraw themselves from publick counsels, as from parliament or committee of estates. This withdrawing is not to act. 2. These act not, who, upon an apprehension of the desperate state of things, do think that all is in such a condition, by the prevailing of the enemy, that there is no remedy, and therefore that it is best to sit still, and see how things go. 3. They who do not act upon scruple of conscience. I shall ever respect tendernesse of conscience; and I wish there be no more but tendernesse. If there be no more, men will strive to have their consciences well informed.

They may be supposed to scruple upon one of these grounds. 1. To act in such a cause for the kings interest. Sure I am this was not a doubt before, but all seemed to agree to act for the kings interest, in subordination to Christs, and this day there is no more sought. We own the kings interest only in a subordination to Christs; or, 2. to joyne with such instruments as are enemies to the work of God. Our answer to the estates *quare* resolves, that such should not be intrusted; but we do not count these enemies who professe repentance, and declare themselves solemnly to be for the cause and the covenant, and do evidence it by their willingnesse to fight for them. If it be

said, their repentance is but counterfeit, we are bound to think otherwayes in charitie, till the contrarie be seen. No man can judge of the reality of hearts; for we have now found by experience, that men who have been accounted above all exception have betrayed their trust. If any who have not yet repented of their former course shall bee intrusted, wee shall bee sorry for it, and plainly say, That it ought not to bee.

But I think there must be more in this, that men say they cannot act. For myself, I love not that word in our case. It is too frequent, *hee can not act*, and *hee can not act*. I fear there be three sort of persons lurking under this cover. 1. Such as are pusillanimous, who have no courage to act against the enemy. The word is true of them, they cannot act, because they darre not act. 2. Such as are selfish men, serving their idole credit. He hath been a man of honour, and now he feareth there will be no credit to fight against this prevailing enemy; therefore he cannot act and save his credit. Be who thou will that hath this before thee, God shall blast thy reputation. Thou shalt neither have honour nor credit to do a right turn in Gods cause. 3. Such as are compliars, who cannot act, because they have a purpose to comply. There are that can not act in an armie, but they can betray an armie by not acting. There are that cannot act for safety of a kingdom, but they do betray it by not acting. In a word, there are who can not joyne to act with those whom they accompt malignants (I speak not of declared and known malignants, but of such as have been and are fighting for the cause, yet by them esteemed malignants;) but they can joyne with sectaries, open and declared enemies to kirk and kingdom. I wish subjects, who are bound to fight for the kingdom, would lay by that phrase of *not acting*, which is so frequent in the mouth of complyars, and offensive to them who would approve themselves in doing duetie for endangered religion, king, and kingdome.

That men may be more clear to act, I shall offer to your consideration some passages of Scripture, about those who do not act against a common enemie.

1. Judges 5. There are many reproved for lying still, while an enemy had invaded the land; as Reuben with his divisions, Gilead, Dan, and Asher seeking themselves, all are reproved, for not joining with the people of God, who were willing to jeopard their lives against a mighty oppressing enemy. But there is one passage concerning Meroz, vers. 23. which fitteth our purpose, "The angell of the Lord said, curse ye Meroz, curse ye bitterly the inhabitants thereof; they came not to the help of the Lord, to the help of the Lord against the mighty." What this Meroz was is not clear; yet all interpreters agree, that they had opportunity and power to have joined with and helped the people of God, and it is probable they were near the place of the fight. They are cursed for not comming to the help of the Lords people. This may be applyed to these in the land who will not help the Lord against the mighty.

2. Another passage you have Numb. 32. Reuben and Gad having a multitude of cattell, and having seen the land of Gilead, that it was a place for cattell, they desire of Moses and the princes that that land may be given them, and they may not passe over Jordan, vers. 6. 7. Moses reproveth them in these words: "Shall your brethren go to warre? and shall ye sit still? Wherefore discourage ye the heart of the children of Israel?" vers. 16, 17, 18. Reuben and Gad made their apologie, showing that they have no such intention to sit still, only they desire their wives and little ones may stay there, they themselves promise to go over Jordan armed before Israel, and not return before they were possessed in the land; then Moses said unto them, vers. 20, 21, 22. "If you do so, then this shall be your possession" But vers. 23. "If ye do not so, behold, you have sinned against the Lord, and be sure your sin shall finde you out."

I may apply this to them that can not act, Will ye sit still when the rest of your brethren are to hazard their lives against the enemie? we have reason to reprove you. If Moses, that faithfull servant of God, was still jealous of Reuben and Gad, even after their apologie and promise to act, (for he saith, "If yee doe not so,") have not honest

and faithfull servants of God ground to be jealous of their brethren who refuse to act? Let them apologize what they will for their not acting, I say, they sin against the Lord, and their sin shall finde them out. It will be clearly seen upon what intentions they do not act

3. A third passage is Samuel 23. vers. 26. Saul hath David inclosed, that hee can hardly escape. In that very instant there cometh a messenger to Saul, saying, vers. 17. "Haste thee and come; for the Philistines have invaded the land." At the hearing of this message, vers. 28. "Saul returned from persuing after David, and went against the Philistines." It is true, the Lord did provide for his servant Davids escape by this mean, but if you consider Saul, he took it not so. Nothing moved him to leave this persute, but the condition of the land, by the invading of an enemie.

Three things might have moved Saul to stay and persue David. 1. Hee hath him now in a strayte, and hath such advantage, that hee might have thought not to come readilie by the lyke.

2. That, although the Philistines be enemies, yet David is the most dangerous enemie; for he aimeth at no lesse then the crown. It were better to take conditions of the enemy, then to suffer David to live and take the crown.

3. He might have said, If I leave David at this time and fight with the Philistines, and bee beaten, he will get a power in his hand to undo me and my posteritie. These may seem strong motives, but Saul is not mooved with any of these. The present danger is, the Philistines invading the land; and this danger is to be opposed, come of the danger from David what will. As if Saul had said, I will let David alone, I will meet with him at another time, and reckon with him; now there is no time for it, the Philistines are in the land, let us make haste against them. I wish that many of our countrey-men had as great love to their countrey, and as publick a spirit for it as this prophane king had, then there would not be so many questions for acting as men make this day.

The objections I have been touching are in men thoughts and heads. 1. Some say, now the malignants are under, for this enemie is their rod, it is best to put them out of having any power; yea, there are some who would more willingly go to undoe these, whom they accompt malignants, nor against the common enemy, who are wasting the land. If they had Sauls resolution, they would say, The Philistines are in the land, let them alone, we will reckon with them at another time; we will now go against the common enemy

They have also the second objection: The malignants are more dangerous enemies then the sectaries. I shall not now compare them at an equall distance, and abstract from the present danger; but I shall compare them in the present posture of affaires. I am sure, the sectaries having power in their hands, and a great part of the land in their possession, are farre more dangerous then malignants, who have no power for the present; and therefore the resolution should be, The sectaries have invaded the land, and are destroying it, let us go against them.

3. The third observation weigheth much with many; the malignants being imployed to fight for their countrey, may get such power in their hand as may hurt the cause. For answer, 1. The resolution given to the quære of the estates provideth against that, for therein is a desire that no such power should be put in their hand. 2. This fear goeth upon a supposition that they do not repent their former course. This is an uncharitable judgement. We are bound to be more charitable of men possessing repentance, for with such we have to do only. And to speak a word by the way to you, who have been upon a malignant course, little good is expected from you; I pray you be honest and disappoint them: I wish you true repentance, which will both disappoint them and be profitable to your selves. 3. I desire it may be considered, whether or not fear of

a danger to come from men if they prevail against the common enemie, being only cloathed with a capacity to fight for their country, be an argument against rising to oppose a seen and certain danger comming from an enemie, cloathed with power and still prevailing. I conceive it ought to be far from any to hinder men to defend their countrey in such a case; I confesse, indeed, the cause which we maintain hath met with many enemies who have been against it, which requireth much tendernesse; therefore, men are to be admitted to trust, with such exceptions as may keep them out who are still enemies to the cause of God, have not professed repentance, renounced their former courses, and declared themselves for cause and covenant. I doubt not but it shall be found, that the admitting of such to fight in our case as it standeth, is agreeable to the word of God, and is not against the former publick resolutions of kirk and state.

The second sort of persons we are to meet with are such as act for the enemy against the kingdom. If they be cursed, who will not come out to help the Lord against the mighty, what a curse shall be upon them who help the mighty against the Lord, as they do who act for the enemie. Three wayes is the enemy helped against the cause and people of God:

1. By keeping correspondence with them, and giving them intelligence; there is nothing done in kirk or state, but they have intelligence of it. A baser way hath never been used in any nation Your counsels and purposes are made known to them. If there be any such here (as I fear they be) let them take this to them, they are of those who help the mighty against the Lord, and the curse shall stick to them.

2. By strengthening the enemies hands with questions, debates, and determinations, in papers tending to the justifying of their injust invasion. What ever hath been mens intentions in taking that way, yet the thing done by them hath tended to the advantage of the enemie, and hath divided these who should have been joyned in the cause, to the great weakening of the kingdome, and this, interpretatively, is to act for the mightie against the Lord.

3. By gross complyance with the enemie, and going into them, doing all the evill offices they can against their native kingdome. If Meroz was cursed for not helping, shall not these perfidious covenant-breakers and treacherous dealers against a distressed land be much more accursed, for helping and assisting a destroying enemy, so far as lyeth in their power? Isai. 31. 3 may be truely applyed to them who are helping strangers, "Enemies to God, his kirk and religion, both he that helpeth shall fall; and he that is holpen shall fall down, and they all shall faile together."

III The third particular about this covenant resteth to be spoken of: to wit, some directions to the king, for the right performing of his dutie, whereof I shall give seven:

1. A king meeting with many difficulties in doing of duetie, by reason of strong corruption within, and many tentations without; he should be carefull to seek God by prayer for grace to overcome these impediments, and for an understanding heart to govern his people. Solomon having in his option to ask what he would, he asked an understanding heart to go out and in before his people; knowing that the government of the people was a very difficile work, and needed more then ordinary understanding. A king also hath many enemies, (as our king hath this day,) and a praying king is a prevailing king. Asa, when he had to doe with a mighty enemy, 2 Chron. 14. prayed fervently and prevailed. Jehoshaphat was invaded with a mighty enemie, 2 Chron. 20. he prayed and did prevail. Hezekiah prayed against Senacheribs hudge armie, and prevailed, 2 Chron. 32.

Sir, you have many difficulties and oppositions to meet with; acquaint yourself with prayer, be instant with God, and he will fight for you. Prayers are not in much request at court, but a covenanted king must bring them in request. I know a king is

burthened with a multiplicitie of effairs, and will meet with many diversions; but, sir, you must not be diverted. Take houres, and set them apart for that exercise; men being once acquainted with your way will not dare to divert you. Prayer to God will make your effairs easie all the day. I read of a king, of whom his courtiours said he spoke oftener with God then with men. If you be frequent in prayer, you may expect the blessing of the Most High upon your self and upon your government.

2. A king must be carefull of the kingdome which he hath sworn to maintain. We have had many of too private a spirit, by whom self interest hath been preferred to the publick. It becometh a king well to be of a publick spirit, to care more for the publick then his own interest. Senates and states have had mottos written over the doors of their meeting places; over the senate house of Rome was written, *Ne quid respublica detrimenti capiat*; I shall wish this may be written over your assembly houses; but there is another that I would have written with it, *Ne quid ecclesia detrimenti capiat.* Be carefull of both; let neither kirk nor state suffer hurt; let them go together. The best way for standing of a kingdome is a well constitute kirk: they deceive kings, who make them believe that the government of the kirk, I mean the presbyteriall government, can not sute with monarchie: they sute well, it being the ordinance of Christ, rendering to God what is Gods, and to Cæsar what is Cæsars.

Sir, kings who have a tender care of the kirk, Isai. 41. 3. are called nursing fathers. You would be carefull that the gospel may have a free passage through the kingdome, and that the government of the kirk may be preserved intire, according to your solemn engagement. The kirk hath met with many enemies, as papists, prelats, malignants, which I passe as known enemies; but there are two sorts more, who at this time would be carefully looked on.

1. Sectaries, great enemies to the kirk, and to all the ordinances of Christ, and more particularly to presbyteriall government, which they have and would have altogether destroyed. A king should set himself against these, because they are enemies as well to the king as to the kirk, and strive to make both fall together.

2 Erastians, more dangerous snares to kings then sectaries, because kings can look well enough to these, who are against themselves and their power, as sectaries, who will have no king; but Erastians give more power to kings then they should have, and are great enemies to presbysteriall government; for they would make kings believe that there is no government but the civill, and derived from thence, which is a great wrong to the sonne of God, who hath the government of the kirk distinct from the civill, yet no wayes prejudiciall to it, being spirituall and of another nature. Christ did put the magistrate out of suspition that his kingdome was prejudiciall to civill government; affirming, "My kingdome is not of this world." This government Christ hath not committed to kings, but to the office bearers of his house, who, in regard of civill subjection, are under the civill power as well as others; but in their spirituall administration, they are under Christ, who hath not given unto any king upon earth the dispensation of spirituall things to his people.

Sir, you are in covenant with God and his people, and are obliged to maintaine presbysteriall government, as well against Erastians as sectaries. I know this Erastian humour aboundeth at court It may be some endeavour to make you reproach upon that, for which God had punished your predecessors. Be who he will that meddleth with this government to overturn it, it shall be as heavy to him as the burthensome stone to the enemies of the kirk "They are cut in pieces, who burthen themselves with it," Zach. 12.

3. A king in covenant with the people of God should make much of those who are in covenant with them; having in high estimation the faithfull servants of Christ and

the godly people of the land. It is rare to finde kings lovers of faithfull ministers and pious people. It hath been the fault of our own kings to persecute the godly.

1. Let the king love the servants of Christ who speak the trueth. Evill kings are branded with this, that they contemned the prophets, 2 Chron. 25. When Amaziah had taken the gods of Scir, and set them up for his gods, a prophet came to him and reproved him, unto whom the king said, "Who made thee of the kings councell, forbear, lest thou bee smitten." This contempt of the prophets warning is a fore-runner of following destruction. Be a carefull hearer of Gods word, take with reproof, esteem of it as David did, Psal. 141. 5. "An excellent oyl which shall not break the head." To make much of the faithfull servants of Christ will be an evidence of reality.

2. Let the king esteem well of godly professours: let piety be in accompt. It is a fault very common, that pious men, because of their conscientious and strict walking, are hated by the prophane, who love to live loosely: It is usual with prophane men to labour to bring kings unto a distaste of the godly, especially when men who have professed piety become scandalous; whereupon, they are ready to judge all pious men to be like them, and take occasion to speak evill of piety. I fear at this time, when men who have been commended for piety, have fallen foully and betrayed their trust, that men will take advantage to speak against the godly of the land. Beware of this, for it is Sathans policy to put piety out of request Let not this move any. Fall who will, piety is still the same, and pious men will make conscience both of their wayes and trust. Remember, they are precious in Gods eyes, who will not suffer men to despise them without their reward. Sir, let not your heart be from the godly in the land, what ever hath fallen out at this time. I dare affirm there are very many really godly men, who by their prayers are supporting your throne.

4. A king should be carefull whom he putteth in places of trust, as a main thing for the good of the kingdome. It is a maxime, that trust should not be put in their hands who have oppressed the people, or have betrayed their trust. There is a passage in story meet for this purpose. One Septimius Arabinus, a man famous, or rather infamous, for oppression, was put out of the senate, but re-admitted; about this time Alexander Severus being chosen to the empyre, the senatours did entertain him with publick salutations and congratulations; Severus espying Arabinus amongst the senators, cryed out, *O Numina! Arabinus non solum vivit, sed in senatum venit.* Ah! Arabinus not only liveth, but he is in the senate. Out of just indignation he could not endure to see him. As all are not meet for places of trust in judicatories, so all are not meet for places of trust in armies. Men would be chosen who are godly and able for the charge.

But there are some who are not meet for trust. 1. They who are godly, but have no skill nor ability for the place: a man may be a truely godly man who is not fit for such place, and no wrong is done to him, nor to godlinesse, when the place is denyed to him. I wonder how a godly man can take upon him a place whereof he hath no skill. 2. They who have neither skill nor courage are very unmeet, for if it be a place of never so great moment, faint-heartednesse will make them quite it. 3. They who are both skilfull and stout, yet are not honest, but perfidious and treacherous, should have no trust at all.

Of all these we have sad experience, which should not move you to make choise of prophane and godlesse men, by whom a blessing is not to be expected; but it should move you to be warie in your choise. I am confident such may be had who will be faithful for religion, king, and kingdome.

5. There hath been much debate about the exercise of the kings power, yet he is put in the exercise of his power, and this day put in a better capacity to exercise it by

his coronation. Many are affrayed that the exercise of his power shall prove dangerous to the cause; and indeed I confesse there is ground of fear, when we consider how this power hath been abused by former kings. Therefore, sir, make good use of this power, and see that you rather keep within bounds then exceed in the exercise of it. I may very well give such a counsell as an old counsellour gave to a King of France. He having spent many years at court, desired to retire into the country for enjoying privacie fit for his age, and having obtained leave, the king his master required him to sit down and write some advice of government to leave behind him, which he out of modesty declined. The king would not be denyed, but left with him pen and ink, and a sheet of paper. He being alone, after some thoughts, wrote with fair and legible characters in the head of the sheet, *Modus*, in the middle of the sheet, *Modus*, and in the foot of the sheet *Modus*; and wrote no more in all the paper, which he wrapped up and delivered to the king, meaning, that the best counsell he could give him was, that he should keep temper in all things. Nothing more fit for a young king then to keep temper in all things. Take this counsell, sir, and be moderate in the use of your power. The best way to keep power is moderation in the use of it.

6. The king hath many enemies, even such as are enemies to his family, and to all kingly government, and are now in the bowels of this kingdom wasting and destroying: Bestir your self, according to vows and oaths that are upon you, to be active for the relief of Christs kingdom, born down by them in all the three kingdoms, and for the relief of this kingdom grievously oppressed by them. We shall earnestly desire that God would put that spirit upon our king, now entered upon publick government, which he hath put upon the deliverers of his people from their cruel oppressours.

In speaking of the kings behaviour to enemies, one thing I can not passe. There is much spoken of a treaty with this enemie. I am not of the judgment of some, who distinguish a treaty before invasion and after invasion, and say, treating is very lawfull before invasion, because it is supposed that there is little wrong done; but after invasion, when a kingdom is wronged and put to infinit losses, then they say a treaty is to be shunned: But in my judgment, a treaty may be lawfull after invasion and wrongs sustained. The end of war is peace; neither should desire of revenge obstruct it, providing it be such a treaty and peace as is not prejudiciall to religion, nor to the safety of the kingdom, nor to the undoubted right of the king, nor to the league and covenant whereunto we are so solemnly engaged.

But I must break off this treaty with a story related in Plutarch. The city of Athens was in a great strait, wherein they knew not what to do. Themistocles in this strait, said he had something wherein to give his opinion for the behoof of the state, but he thought it not fit to deliver himself publickly. Aristides, a man of great trust, is appointed to hear him privatly, and to make an accompt as he thought meet. When Aristides came to make his report to the senate, he told them, that Themistocles his advice was indeed profitable, but not honest. Whereupon the people would not so much as hear it. There is much whispering of a treaty, they are not willing to speak publickly of it. Hear them in private, and it may be the best advice shall be profitable, but not honest. If a treaty should be, let it be both profitable and honest, and no lover of peace will be against it.

7. Seeing the king is now upon the renewing of the covenants, it would be remembered, that we enter into covenant according to our profession therein, with reality, sincerity, and constancy, which are the qualifications of good covenanters. Many doubt of your reality in the covenant; let your sincerity and reality be evidenced by your stedfastnesse and constancy, for many have begun well, but have not been constant.

In the sacred history of kings, we find a note put upon kings according to their carriages. One of three sentences is written upon them. 1. Some kings have this writ-

ten on them: "He did evil in the sight of the Lord." They neither begin well nor end well. Such an one was Ahaz, King of Judah, and diverse others in that history. 2. Others have this written of them: "He did that which was right in the sight of the Lord, but not with a perfect heart." Such an one was Amaziah, King of Judah, 2 Chron. 25. 2. He was neither sincere nor constant; when God blessed him with victory against the Edomites, he fell foully from the true worship of God, and set up the gods of Edom. 3. A third sentence is written upon the godly kings of Judah, "He did right in the sight of the Lord, with a perfect heart," as Asa, Hezekia, Jehoshaphat, and Josiah. They were both sincere and constant. Let us neither have the first nor the second, but the third, written upon our king. "He did right in the sight of the Lord, with a perfect heart." Begin well and continue constant.

Before I close I shall seek leave to lay before our young king two examples to beware of, and one to follow. The two warning examples, one of them is in the text, another in our own history.

The first example is of Joash. He began well, and went on in a godly reformation all the dayes of Jehojada, but it is observed, 2 Chron. 24. 17. that after the dayes of Jehojada, the princes of Judah came and did obeysance to the king, and he hearkened unto them, verse 18. It appeareth they had been lying at wait till the death of Jehojada, and took that opportunity to destroy the true worship of God, and set up false worship, flattering the king for that effect: For it is said, "They left the house of the Lord, and served groves and idoles;" and were so far from being reclaimed by the prophet of the Lord that was sent unto them, that they conspired against Zechariah, the son of Jehojada, who reproved them mildly for their idolatry, and stoned him with stones, and slew him at the kings commandement. And verse 22. it is said, "Joash remembred not the kindnesse that Jehojada his father had done to him, but slew his son."

Sir, take this example for a warning. You are obliged by the covenant to go on in the work of reformation; it may be some great ones are waiting their time, not having opportunity to work for the present, till afterward they may make obeysance and perswade you to destroy all that hath been done in the work of God these diverse years. Beware of it, let no allurement or perswasion prevail with you to fall from that which this day you bind yourself to maintain.

Another example I give you, yet in recent memory, of your grand-father King James. He fell to be very young in a time full of difficulties, yet there was a godly party in the land, who did put the crown upon his head. And when he came to some years, he and his people entred in a covenant with God: he was much commended by godly and faithfull men, comparing him to young Josiah standing at the altar, renewing a covenant with God; and he himself did thank God that he was born in a reformed kirk, better reformed then England, for they retained many popish ceremonies; yea, better reformed then Geneva, for they keep some holy dayes; charging his people to be constant, and promising himself to continue in that reformation, and to maintain the same. Notwithstanding of all this he made a foule defection; he remembred not the kindnesse of them who had held the crown upon his head; yea, he persecuted faithfull ministers for opposing that course of defection. He never rested till he had undone presbyteriall government and kirk assemblies, setting up bishops and bringing in ceremonies, against which formerly he had given large testimony. In a word, he laid the foundation whereupon his son, our late king, did build much mischief to religion all the dayes of his life.

Sir, I lay this example before you the rather, because it is so near you, that the guiltnesse of the transgression lyeth upon the throne and family, and it is one of the sinnes for which you have professed humiliation very lately. Let it be laid to heart, take warning, requite not faithfull mens kindnesse with persecution; yea, requite not the Lord so, who hath preserved you to this time, and is setting a crown upon your

head. Requite not the Lord with apostasie and defection from a sworn covenant: But be stedfast in the covenant, as you would give testimonie of your true humiliation for the defection of these that went before you.

I have set up these two examples before you as beacons to warn you to keep off such dangerous courses, and shall adde one for imitation, which, if followed, may happily bring with it the blessing of that godly mans adherence to God. The example is of Hezekiah, who did that "which was right in the sight of the Lord." 2 Kings 18. 5, 6. It is said of him, "He trusted in the Lord God of Israel, and he clave unto the Lord, and departed not from following him, but kept his commandments." And verse 7. "The Lord was with him, and he prospered whithersoever he went forth."

Sir, follow this example, cleave unto the Lord, and depart not from following him, and the Lord will be with you and prosper you whithersoever ye go. To this Lord, from whom we expect a blessing upon this dayes work, be glory and praise for ever. Amen.

Sermon being ended, prayer was made for a blessing upon the doctrine delivered.

The king being to renew the covenants, first the nationall covenant, then the solemn league and covenant, were distinctly read.

After the reading of these covenants, the minister prayed for grace to perform the contents of the covenants, and for faithfull stedfastnesse in the oath of God; and then (the ministers, commissioners of the generall assemblie, desired to be present, standing before the pulpit) he ministred the oath unto the king, who kneeling, and lifting up his right hand, did swear in the words following:

"I Charles, King of Great Britaine, France, and Ireland, do assure and declare, by my solemn oath, in the presence of Almighty God, the searcher of hearts, my allowance and approbation of the nationall covenant, and of the solemn league and covenant above-written, and faithfullie obliedge myself to prosecute the ends thereof, in my station and calling; and that I for myself and successours shall consent and agree to all acts of parliament enjoyning the nationall covenant, and the solemn league and covenant, and fullie establishing presbyteriall government, the directory of worship, confession of faith, and catechismes in the kingdome of Scotland, as they are approven by the generall assemblies of this kirk, and parliament of this kingdome; and that I shall give my royall assent to acts and ordinances of parliament passed, or to be passed, enjoyning the same in my other dominions; and that I shall observe these in mine own practice and family, and shall never make opposition to any of these, or endeavour any change thereof."

After the king had thus solemnlie sworn the nationall covenant, the league and covenant, and the kings oath subjoined unto both, being drawn up in a fair parchment, the king did subscribe the same in presence of all.

Thereafter the king ascendeth the stage, and sitteth down in the chaire of state.

Then the lords, great constable and marshall, went to the four corners of the stage, with the lyon going before them, who spoke to the people these words:—"Sirs, I doe present unto you the king, Charles, the rightfull and undoubted heir of the crown and dignitie of this realme; this day is by the parliament of this kingdome appointed for his coronation, and are you not willing to have him for your king, and become subject to his commandments?"

In which action the kings majesty stood up, showing himself to the people in each corner, and the people expressed their willingnesse by chearful acclamations, in these words:—"God save the King, Charles the Second."

Thereafter the kings majestie, supported by the constable and marshall, cometh down from the stage, and sitteth down in the chair, where he heard the sermon.

The minister, accompanied with the ministers before-mentioned, cometh from the

pulpit toward the king, and requireth if he was willing to take the oath, appointed to be taken at the coronation.

The king answered he was most willing.

Then the oath of coronation, as it is contained in the eight act of the first parliament of King James, being read by the lyon, the tenour whereof followeth:

"Because, that the increase of vertue, and suppressing of idolatry, craveth, that the prince and the people be of one perfect religion, which of God's mercie is now presently professed within this realme: Therefore it is statuted and ordained, by our sovereign lord, my lord regent, and three estates of this present parliament, that all kings, princes, and magistrates whatsoever holding their place, which hereafter at any time shall happen to raign and bear rule over this realme, at the time of their coronation and receit of their princely authority, make their faithfull promise in the presence of the eternall God, that enduring the whole course of their lives they shall serve the same eternal God to the uttermost of their power, according as he hath required in his most holy word, revealed and contained in the New and Old Testaments; and according to the same word, shall maintain the true religion of Christ Jesus, the preaching of his holy word, and due and right ministration of the sacraments now received and preached within this realme; and shall abolish and gainstand all false religions, contrary to the same; and shall rule the people committed to their charge according to the will and command of God, revealed in his foresaid word, and according to the loveable lawes and constitutions received in this realme, no wayes repugnant to the said word of the eternall God; and shall procure to the uttermost of their power, to the kirk of God and whole christian people, true and perfect peace in time coming. The rights and rents, with all the just priviledges of the crown of Scotland, to preserve and keep inviolated: Neither shall they transfer nor alienate the same. They shall forbid and represse in all estates and degrees, reaf, oppression, and all kinde of wrong: In all judgements they shall command and procure that justice and equity be keeped to all creatures, without exception, as the Lord and Father of Mercies be mercifull unto them; and out of their lands and empire, they shall be careful to root out all hereticks and enemies to the true worship of God, that shall be convict by the true kirk of God of the foresaid crimes; and that they shall faithfully affirm the things above written, by their solemn oath."

The minister tendered the oath unto the king, who kneeling and holding up his right hand, sware in these words: "By the eternall and almighty God, who liveth and reigneth for ever, I shall observe and keep all that is contained in this oath."

This done, the kings majestie sitteth down in his chaire, and reposeth himself a little.

Then the king ariseth from his chaire, and is disrobed by the lord great chamberlaine of the princelie robe wherewith he entered the kirk, and is invested by the said chamberlaine in his royall robes.

Thereafter, the king being brought to the chaire on the north side of the kirk, supported as formerlie, the sword was brought by Sir William Cockburn, of Langtown, gentleman usher, from the table, and delivered to lyon king of armes, who giveth it to the lord great constable, who putteth the same in the kings hand, saying, "Sir, receive this kingly sword for the defence of the faith of Christ, and protection of his kirk, and of the true religion, as it is presently professed within this kingdome, and according to the national covenant and league and covenant, and for executing equitie and justice, and for punishment of all iniquitie and injustice."

This done, the great constable receiveth the sword from the king, and girdeth the same about his side.

Thereafter, the king sitteth down in his chaire; and then the spurres were put on him by the earle marishall.

Thereafter, Archibald, Marquis of Argyle, having taken the crown in his hands, the minister prayed to this purpose:

That the Lord would purge the crown from the sinnes and transgressions of them that did raign before him; that it might be a pure crown; that God would settle the crown upon the kings head; and since men that set it on were not able to settle it, that the Lord would put it on, and preserve it. And then the said marquis put the crown on the kings head.

Which done, the lyon king of armes, the great constable standing by him, causeth an herauld to call the whole noble men, one by one, according to their ranks; who coming before the king, kneeling, and with their hand touching the crown on the kings head, sware these words: "By the eternall and almightie God, who liveth and raigneth for ever, I shall support thee to my uttermost." And when they had done, then all the nobilitie held up their hands, and sware to be loyall and true subjects, and faithful to the crown.

The earle marishall, with the lyon, going to the four corners of the stage, the lyon proclaimeth the obligatorie oath of the people, and the people holding up their hands all the time, did swear, "By the eternall and almightie God, who liveth and raigneth for ever, wee become your liedge men, and truth and faith shall beare unto you, and live and die with you, against all manner of folkes whatsoever, in your service, according to the nationall covenant and solemn league and covenant."

Then did the earles and viscounts put on their crownes, and the lyon likewayes put on his.

Then did the lord chamberlaine loose the sword wherewith the king was girded, and draw it, and deliver it drawn into the kings hands, and the king put it in the hands of the great constable, to carry it naked before him.

Then John Earle of Craufurd and Lindsay took the scepter, and put in the kings right hand, saying, "Sir, receive this scepter, the sign of royall power of the kingdom, that you may govern yourself right, and defend all the Christian people committed by God to your charge, punishing the wicked and protecting the just."

Then did the king ascend the stage, attended by the officers of the crown and nobility, and was installed in the royall throne by Archibald Marquis of Argyle, saying, "Stand, and hold fast from henceforth the place whereof you are the lawful and righteous heir, by a long and lineall succession of your fathers, which is now delivered unto you by authority of Almighty God."

When the king was set down upon the throne, the minister spoke to him a word of exhortation as followeth:

"Sir, you are set down upon the throne in a very difficill time; I shall therefore put you in mind of a scripturall expression of a throne, 1 Chron. 29. 23. it is said, "Solomon sat on the throne of the Lord." Sir, you are a king, and a king in covenant with the Lord. If you would have the Lord to own you to be his king, and your throne to be his throne, I desire you may have some thoughts of this expression.

"1. It is the Lords throne. Remember you have a King above you, the King of kings and Lord of lords, who commandeth thrones. He setteth kings on thrones, and dethroneth them at his pleasure; therefore take a word of advice. Be thankfull to him who hath brought you through many wanderings to set you on this throne. Kisse the Son, lest he be angry; and learn to serve Him with fear, who is terrible to the kings of the earth.

"2. Your throne is the Lords throne, and your people the Lords people. Let not your heart be lifted up above your brethren, Deut. 17. 20. They are your brethren; not only flesh of your flesh, but brethren by covenant with God. Let your government be refreshing unto them as the rain on the mowen grasse.

"3. Your throne is the Lords throne. Beware of making his throne a throne of ini-

quity. There is such a throne, Psal. 94. 20., which frameth mischief by a law. God will not owne such a throne: it hath no fellowship with him. Sir, there is too much iniquity upon the throne by your predecessors, who framed mischief by a law, such laws as have been destructive to religion and grievous to the Lords people. You are on the throne, and have the scepter: Beware of touching mischievous laws therewith; but as the throne is the Lords throne, let the lawes be the Lords lawes, agreeable to his word, such as are terrible to evill doers, and comfortable to the godly, and a relief to the poor and oppressed in the land.

"4. The Lord's throne putteth you in mind whom you should have about the throne. Wicked counsellors are not for a king upon the Lords throne. Solomon knew this, who said, Prov. 25. 5. "Take away the wicked from before the king, and his throne shall be established in righteousness;" and, Prov. 20. 8. "A king upon the throne scattereth away all evill with his eyes."

"5. The Lords throne putteth you in mind that the judgment on the throne should be the Lords. Take the exhortation, Jer. 22., from the beginning, the prophet hath a command to go to the house of the King of Judah, and say, "Hear the word of the Lord, O King of Judah, that sittest upon the throne, and thy servants, and thy people; execute ye judgment and righteousnesse, and deliver the spoiled out of the hand of the oppressour, and do no wrong; do no violence to the stranger, the fatherlesse, nor the widow, neither shed innocent blood in this place. If ye do this thing indeed, then shall there enter by the gates of this house, kings sitting upon the throne of David; but if ye will not hear these words, I swear by Myself, saith the Lord, this house shall become a desolation;" and, vers. 7., "I will prepare destroyers against thee."

"Sir, destroyers are prepared for the injustice of the throne. I intreat you execute righteous judgment. If you do it not, your house will be a desolation; but if you do that which is right, God shall remove the destroyers, and you shall be established on your throne, and there shall yet be dignitie in your house, for your servants and for your people.

"Lastlie. If your throne be the throne of the Lord, take a word of encouragement against throne adversaries. Your enemies are the enemies of the Lords throne. Make your peace with God in Christ, and the Lord shall scatter your enemies from the throne, and he shall magnifie you yet in the sight of these nations, and make the misled people submit themselves willingly to your government.

"Sir, if you use well the Lords throne on which you are set, then the two words in the place cited, 1 Chron. 29. 23., spoken of Solomon sitting on the throne of the Lord, "He prospered, and all Israel obeyed him," shall belong unto you. Your people shall obey you in the Lord, and you shall prosper in the sight of the nations round about."

Then the lord chancellour went to the four corners of the stage, the lyon king of armes going before him, and proclaimed his majesties free pardon to all breakers of penall statutes, and made offer thereof; whereupon the people cryed, "God save the King."

Then the king, supported by the great constable and marishall, and accompanied with the chancellour, arose from the throne, and went out at a door prepared for the purpose to a stage, and sheweth himself to the people without, who clapped their hands, and cryed with a loud voice a long time, "God save the King."

Then the king returning, and sitting down upon the throne, delivered the scepter to the Earle of Craufurd and Lindsay, to be carried before him. Thereafter, the lyon king of armes rehearsed the royall line of the kings upward to Fergus I.

Then the lyon called the lords one by one, who, kneeling and holding their hands betwixt the kings hands, did swear these words: "By the eternall and almighty God, who liveth and reigneth for ever, I do become your liedge man, and truth and faith

shall bear unto you, and live and die with you, against all manner of folks whatsoever, in your service, according to the nationall covenant and solemn league and covenant."

And every one of them kissed the kings left cheek.

When these solemnities were ended, the minister, standing before the king on his throne, pronounced this blessing:

"The Lord blesse thee and save thee, the Lord hear thee in the day of trouble: the name of the God of Jacob defend thee: the Lord send thee help from the sanctuarie, and strengthen thee out of Sion. Amen."

After the blessing pronounced, the minister went to the pulpit, and had the following exhortation, the king sitting still upon the throne: "Yee have this day a king, crowned and entered into covenant with God and his people. Look, both king and people, that ye keep this covenant, and beware of the breach of it. That ye may be the more carefull to keep it, I will lay a few things before you.

"I remember when the solemn league and covenant was entered by both nations, the commissioners from England being present in the East Kirk of Edinburgh, a passage was cited out of Nehem. 5. 13., which I shall now again cite. Nehemiah requireth an oath of the nobles and people to restore the mortgaged lands, which they promised to do. After the oath was tendered, in the 13 vers., he did shake his lap, and said, "So God shake out every man from his house, and from his labour, that performeth not his promise, even thus be he shaken out and emptied; and all the congregation said, Amen."

"Since that time, many of these who were in covenant are shaken out of it; yea, they have shaken off the covenant, and laid it aside. It is true, they are prospering this day, and think that they prosper by laying aside the covenant; but they will be deceived. That word spoken then shall not fall to the ground. God shall shake them out of their possession, and emptie them for their perfidious breach of the covenant.

"The same I say to king and nobles, and all that are in covenant. If you break that covenant, being so solemnly sworn, all these who have touched your crown, and sworn to support it, shall not be able to hold it on; but God will shake it off, and turn you from the throne. And ye, noblemen, who are assistant to the putting on of the crown, and setting the king upon the throne, if ye shall either assist or advise the king to break the covenant and overturn the work of God, hee shall shake you out of your possessions, and emptie you of all your glory.

"Another passage I offer to your serious consideration, Jer. 34. 8. After that Zedekiah had promised to proclaim liberty to all the Lords people, who were servants, and entered in a covenant, he and his princes, to let them go free, and according to the oath, had let them go, afterwards they caused the servants to return, and brought them into subjection, vers. 11. What followeth upon this breach? vers. 15, 16., "Ye were now turned, and had done right in my sight in proclaiming libertie; but ye turned, and made them servants again;" and therefore, vers. 18, 19, 20, 21., "I will give the men who have transgressed my covenant, who have not performed the words of the covenant which they made before me, when they cut the calf in twain, and passed between the parts thereof, I will even give them into the hands of their enemies, into the hand of them that seek their life, even Zedekiah and his princes.

"If the breach of a covenant made for the libertie of servants was so punished, what shall be the punishment of the breach of a covenant for religion and the libertie of the people of God? There is nothing more terrible to king and princes then to be given into the hand of enemies that seek their life. If ye would escape this judgment, let king and princes keep their covenant made with God. Your enemies who seek your life are in the land. If ye break the covenant, it may be feared God give you over

unto them as a prey; but, if ye keep covenant, it may be expected God will keep you out of their hands.

"Let not the place ye heard opened be forgotten, for in it ye have an example of divine justice against Joash and the princes, for breaking that covenant, 2 Chron. 24. 23. The princes who intised to that breach are destroyed: and in the 24 vers. it is said, "The armie of the Syrians came with a small company of men, and the Lord delivered a very great host in their hand, because they had forsaken the Lord God of their fathers. So they executed judgment against Joash;" and, vers. 25., "his own servants conspired against him, and slew him on his bed," &c.

"The conspiracie of servants or subjects against their king is a wicked course; but God in his righteous judgment suffereth subjects to conspire and rebell against their princes, because they rebell against God; and he suffereth subjects to break the covenant made with a king, because he breaketh the covenant made with God. I may say freely, that a chief cause of the judgment upon the kings house hath been the grandfathers breach of covenant with God, and the fathers following his steps in opposing the work of God and his kirk within these kingdomes. They broke covenant with God, and men have broken covenant with them; yea, most cruellie and perfidiouslie have invaded the royall familie, and trodden upon all princelie dignitie.

"Be wise by their example. You are now sitting upon the throne of the kingdom, and your nobles about you. There is one above you, even Jesus, the King of Sion; and I, as his servant, dare not but be free with you. I charge you, sir, in his name, that you keep this covenant in all points. If you shall break this covenant, and come against his cause, I assure you the controversie is not ended between God and your familie, but will be carried on to the further weakening, if not the overthrow of it; but if you shall keep this covenant, and befriend the kingdom of Christ, it may be from this day God shall begin to do you good. Although your estate be very weak, God is able to raise you and make you reign, maugre the opposition of all your enemies; and howsoever it shall please the Lord to dispose, you shall have peace toward God, through Christ the Mediator.

"As for you who are nobles and peeres of the land, your share is great in this day of coronation. Ye have come and touched the crown, and sworn to support it; ye have handled the sword and the scepter, and have set down the king upon his throne.

"1. I charge you to keep your covenant with God, and see that ye never be moved your selves to come against it, in any head or article thereof, and that ye give no counsell to the king to come against the doctrine, worship, government, and discipline of the kirk established in this land, as ye would eschew the judgment of covenant-breakers. If the king and ye who are engaged to support the crown conspire together against the kingdom of Christ, both ye that do support, and he that is supported, will fall together. I presse this the more, because it is a rare thing to see a king and great men for Christ. In the long catalogue of kings, which ye have heard recited this day, they will be found few who have been for Christ.

"2. I charge you also, because of your many oathes to the king, that you keep them inviolablie. Be faithfull to him, according to your covenant. The oathes of God are upon you. If, directlie or indirectlie, ye do any thing against his standing, God, by whom ye have sworn, will be avenged upon you for the breach of his oath.

"And now I will shut up all with one word more to you, sir. You are the only covenanted king with God and his people in the world. Many have obstructed your entrie in it. Now, seeing the Lord hath brought you in over all these obstructions, only observe to do what is contained therein, and it shall prove an happie time for you and your house. And because you are entered in times of great difficultie, wherein small strength seemeth to remain with you, in the eyes of the world, for recovering your just power and greatnesse; therefore take the counsell which David, when he was a

dying, gave to his sonne Solomon, 1 King. 2. 2, 3. "Be strong, and shew thyself a man, and keep the charge of the Lord thy God, to walk in his wayes and keep his commandements, that thou mayest prosper in all that thou dost, and whithersoever thou turnest thyself."

After this exhortation, the minister closed the whole action with prayer, and the 20th Psalm being sung, he dismissed the people with the blessing.

Then did the kings majestie descend from the stage, with the crown upon his head, and receiving again the scepter in his hand, returned with the whole train, in solemn manner, to his palace, the sword being carried before him.

FINIS.

The perfect Tryal and Confession of the Earl of Derby, at a Court-Marshal holden at Chester, the First Day of October, in the Year of our Lord God, 1651 *; by Vertue of a Commission from his Excellency the Lord General Cromwell. With his Speech and Plea in Defence of his Life, delivered at the Bar; and his Sentence to be beheaded in the Market Place at Boulton, in Lancashire, on Wednesday next; his Letter to his Lady concerning the same, and the Government of the Island; as also Captain Youngs Summons, and her resolute Answer Likewise the Tryal of Sir Timothy Fetherstonhaugh, and his Sentence to be beheaded at Chester, and Capt. Benbow to be shot at Shrewsbury. Together with the Charge of High Treason against Col. Vaughan, Lieut. Col. Jackson, C. Massey, Dr Drake, Mr Case, Mr Jackson, and Mr. Jenkins. With the Parliaments Directions to the High Court of Justice for their Tryal this present Friday.*

In the fifth volume of these Tracts we have the attainder of James Stanley, Earl of Derby and Lord of Man. Unappalled by this mark of the parliament's resentment, he fortified his strong castle at Lathom, and undertook several enterprizes against the parliament-party in Lancashire with good success; but as his Lordship of Man was threatened with an attack from Scotland, he was ordered thither by the queen for the defence of an island, which could not be lost without much prejudice to the royal cause. During his absence, his heroic countess the Lady Charlotte de la Tremouille held out Lathom House with the most undaunted courage against Sir Thomas Fairfax and a large parliamentary army. The Earl of Derby learning her distressed state, hastened to her relief, and joyned himself to Prince Rupert, who marched through Lancashire in his way to York. At a sharp attack upon Bolton, to which the body that besieged Lathom House had retired, the Earl of Derby led the forlorn hope, and was the first who entered the town: the siege of Lathom House was thus raised for the time, and it was afterwards valiantly defended for two years longer by Captain Edward Rawsthorne, until it was delivered up by the order of Charles; having cost the enemy several thousand lives. Upon Prince Rupert's leaving Lancashire, the Earl of Derby returned to Man with his wife and children. When the royal cause was lost in England, Cromwell made offer to the earl of the free and peaceable enjoyment of his estate if he would surrender that island. This negociation produced the sturdy rejection expressed in the following letter to Commissary General Ireton, by whom the overture had been made to him :—

" I received your letter with indignation and scorn. I return you this answer: That I cannot but wonder whence you should gather any hopes from me, that I should (like you) prove treacherous to my sovereign, since you cannot be insensible of my former actings in his late majesty's service; from which principle of loyalty I am no way departed.

" I scorn your proffers; I disdain your favors; I abhor your treasons; and am so far from delivering this island to your advantage, that I will keep it to the utmost of my power to your destruction.

" Take this final answer, and forbear any further solicitations; for if you trouble me with any more messages upon this occasion, I will burn your paper and hang the bearer.

" This is the immutable resolution, and shall be the undoubted practice of him, who accounts it the chiefest glory to be

His majesty's
Most loyal and
obedient subject,
DERBY."

Cattle Town, 12th July, 1649.

The Earl of Derby continued in the Isle of Man until 1651, when he received an order from Charles II. to join him on his advance into England, which he obeyed; but, finding the presbyterians tardy in affording the aid then expected from them, he used these remarkable words to some of their leading divines, " If I perish, I perish; but if my master perish, the blood of another prince and all the ensuing miseries of the nation will lie at your door." The earl was shortly afterwards engaged in a desperate skirmish with Colonel Lilburne and a very superior force of cavalry in Wigan-lane, where he received seven shots on his breast-plate, thirteen cuts on his head-piece, and several wounds on his arms and shoulders; all his personal valour was insufficient to retrieve the day, and he was only able to break through and join the king with a very few of his cavalry. After the loss of the battle of Worcester on the 3d of September, 1651, he fled with the king into Staffordshire, where they parted, and the earl was shortly afterwards taken in Chester by one Major Edge, to whom he surrendered upon a promise of quarter. The following tract contains the conclusion of his tragical story.

On Wednesday, being the first of this instant moneth, the Earl of Derby was brought to his tryal, before the court-marshal holden at Chester, in the year of our Lord God, 1651, by vertue of a commission from his excellency the Lord Gen. Cromwel, grounded upon an act of parliament of the 12th of August last, entituled, "An Act prohibiting Correspondency with Charles Stuart or his Party, directed to Major Gen. Mitton," &c. The said court being assembled together, after silence proclaimed, the names of the officers were called over; where were present as followeth:

A List of the Names of the Officers at a Court-Marshal holden at Chester on the 1st of October, for the Tryall of the Earl of Derby, Sir Timothy Fetherstonhaugh, and Captain Lenbow.

Col. Humphrey Mackleworth, President.
Major General Mitton.
Col. Robert Duckenfield.
Col. Henry Bradshaw.
Col. Thomas Croxton.
Col. George Twisleton.
Lieut. Col. Henry Birkenhead.
Lieut. Col. Simon Finch.
Lieut. Col. Newton.
Capt. James Stepford.
Capt. Samuell Smith.
Capt. John Downes.
Capt. Vincent Corbet.
Capt. John Delves.
Capt. John Griffith.
Capt. Thomas Portington.

Capt. Edward Alcock.
Capt. Ralph Pownall.
Capt. Richard Grantham.
Capt. Edward Stelfax.

After the court was proclaimed, the president gave order for the prisoner to be brought to the bar, and accordingly he was guarded from the castle to the said court, where Judge Mackworth read the act of parliament, prohibiting correspondence with Charles Stuart or his party; and when his lordship came to the latter clause of the said act, *viz.* that whosoever shall offend against this act and declaration, shall, or may be proceeded against by a councel of war, who are hereby authorized to hear and determine all and every the said offence, and such as shall by the said councell be condemned to suffer death, shall also forfeit all his and their lands, goods, and other estate, as in case of high treason. Upon which words, the Earl of Derby said, "I am no traitor, neither"—— "Sir," replyed the president, "your words are contemptible, you must be silent during the reading of the act and your charge." After his lordship had read the said charge of high treason, &c., the earl pleaded that he had quarter given him for his life by one Captain Ege, which (said he) he conceived a good bar to avoid triall for life by a councel of war, unless he had committed some new fact since quarter given, that might bring him within the cognizance of a court-marshal. Hereupon the commissioners took the matter into consideration, and after a long and serious debate, they agreed to over-rule him in his plea, and finding him guilty of treason, passed sentence upon him in these words:

The Sentence against James, Earl of Derby.

1. Resolved (by the court) upon the question,

That James, Earl of Derby, is guilty of the breach of the said act of the 12 of August last past, entituled, "An Act prohibiting Correspondence with Charles Stuart or his Party," and so of high treason against the commonwealth of England, and is therefore worthy of death.

2. Resolved, &c. That the said James, Earl of Derby, is a traytor to the commonwealth of England, and an abettor, encourager, and assister of the declared traitors and enemies thereof, and shall be put to death by severing his head from his body, at the market-place in the town of Boulton, in Lancashire, upon Wednesday the 15 of this instant October, about the hour of one of the clock of the same day.

No sooner was sentence denounced, but immediately he was remanded back to the place from whence he came; and in hopes of mercy hath voluntarily writ a letter to his lady for the surrender of the Isle of Man, and to submit to the present government, but its believed, that his lines are not effectuall, though life be sweet, and his lordship exceeding desirous thereof; yet the fatal blow is expected to be given at Boulton.

Wherein the just judgement of God upon this man is very remarkable, that in the same county where he first raised arms, drew the first blood, and had done so much mischief, yea, and in the very same town where by his means so much blood had been spilt, when he caused Ruperts tragick march that way,[1] it should be so brought about by his righteous Providence, that he should now come to have his own blood shed there upon a scaffold before all the world, by the hand of publick justice; but that he would had torn the bowels of his countrey by a pernitious warre, should be censured by a

[1] Lord Derby, as was noticed in the introduction, led the van of the storming party when Bolton was taken by Prince Rupert. He was censured on account of the death of one Bootle, a servant of his own, who, on being dismissed from Lathom House, had sworn never to bear arms against the king, but being now found on the opposite party, was slain during the storm. It was said he asked quarter from his former master the earl, who replied, "I will not kill thee myself, but cannot save thee from others."—PECK's *Desiderata Curiosa*, vol. II. p. 451.

court of warre to be made an example of divine vengeance in the midst of his countrey.

And now as to his plea of quarter, it appears very clear, that the commissioners had good reason to over-rule him (as they did) in that plea; because quarter for life belongs only to such as are hostes, *i. e.* enemies, not to such as are perduelles, traitors to their country. The earl is a native of England, and therefore being taken fighting against England, cannot be counted a competent enemy, nor in reason expect an exemption by quarter, which in this present cause is to be esteemed only a meer suspending of a present military execution, that the offender might be brought to punishment by due course of law: So that if the earl had well consulted the act of the 12 of August last, whereupon he was tryed, which authoriseth a councell of war to try delinquents against it, and considered himself an offender against that act, as guilty of high treason against the land of his nativity, and this state and government, then he and his friends must needs have understood, that crimes of so high a nature cannot be exempted by any particular officer, (who is onely employed to attach and bring such malifactors to tryal before the magistrate that set him on work) but are to be taken cognisance of by any persons, power, or judicatory, appointed by the supreme authority against whom such delict is committed; and such was the court martial now in this case, they being persons impowered and designed by the parliament, to hear and determine cases of treason, according to the tenor of the forementioned act.

But the earl's next plea was the ignorance of the acts of treason set forth by the parliament. This was more slight then the former; for every man being bound to take notice of the lawes of this common-wealth, under which he lives, or under whose power he comes, no mans ignorance can excuse, but rather aggravate his offence; besides, the very light of nature and common reason must needs have instructed him so far, as to know that it is the highest of all crimes and treasons for a man to lay designs, bear arms, and joyn with the declared enemy of his native country.

The honourable court having proceeded to sentence against the Earl of Derby; in order to the further executing of justice, began with Sir Timothy Fetherstonhaugh and Captain Benbow, and being brought to the bar, the president likewise caused the act of parliament to be read; as also their charge, consisting of high treason: And, after a short speech by them made, touching the grounds and reasons of their engagement, the court proceeded to sentence, and accordingly resolved as followeth:

The Sentence of the Court against Sir Timothy Fetherston.

1. Resolved upon the Question,

That Sir Timothy Fetherstonhaugh is likewise guilty of the breach of the said act of parliament, of the 12. of August last past, and so of high treason against the common-wealth of England. and is therefore worthy of death.

2. Resolved, &c. That the said Sir Timothy Fetherstonhaugh, as a traytor to the common-wealth of England, and an abettor, encourager, and assister, of the declared traytor and enemy thereof, shall be put to death by severing his head from his body, at some remarkable and convenient place in the city of Chester, upon Wednesday the 22. of this instant October.

The Sentence of the Court against Captain John Benbow.

1. Resolved by the Court upon the Question,

That Capt. John Benbow is also guilty of the breach of the said act of the 12. of August last, and so of high treason against the common-wealth of England, and is therefore worthy of death.

2. Resolved, &c. That the said Captain John Benbow, as a traitor to the commonwealth of England, shall be shot to death at some convenient place in the town of Shrewsbury, upon Wednesday the 15 of this instant October, about one of the clock of the same day.

The Earl of Derbies confession, that they expected a general rising of the presbyterians in Lancashire, they being provided both with arms and ammunition, and that they had laid a plot for the surprizing of Leverpool.

He confesseth also, that when himself landed lately here in England, both Ashurst and Massey told him, they had a letter signed by the Scots king, and the ministers in his army, directed to the ministers of Manchester, which (he saith) their king himself so told him, to bestir themselves in the Scots behalf.

There hath been a summons sent into the Isle of Man, by Captain Young, for the surrender thereof to the parliament of England; whereupon the Countess of Derby returned this answer:

That she was appointed to keep the Isle of Man by her lord's command; which in duty she was bound to obey, and that therefore without his order and appointment she would not deliver it up to any.

Her ladyship is strongly fortifying Peson Castle,[1] where the leaden crown is kept; it is situated upon an exceeding great rock, and thought to be impregnable.

The parliament have given directions and instructions to the high court of justice, for the tryall of divers gentlemen who stand accused for high treason; a list of their names followeth.

Col. Joseph Vaughan	Mr Case
Lieut. Col. Jackson	Mr Jackson
Capt. Hugh Massey [Brother to Col. Massey.]	Mr Jenkins
	Mr Watson
Ministers.	Mr Robinson, and
Doctor Drake	Mr Herrick.

The true Speech delivered on the Scaffold, by James Earl of Derby, in the Market-place at Boulton, in Lancashire, on Wednesday last, being the 15th of this inst. Oct. 1651. *With the manner of his Deportment and Carriage on the Scaffold; his Speech concerning the King of Scots; and his Prayer immediately before his Head was severed from his Body; as also his Declaration and Desires to the People. Likewise the man-*

[1] Russin Castle seems to be meant. The gallant countess, like a heroine in a tale of chivalry, continued to hold out the island of Man, until she was betrayed by six of her dependants, who raised an insurrection, and caused the island to be delivered up to the Protector in 1651. The countess and her children were detained prisoners, and subsisted upon the charity of their impoverished friends, until the Restoration. After the Restoration, as appears from the criminal records of the island, William Christian, late receiver general of Man, and others, his assistants, were brought to trial for treason against their liege lord, by the said insurrection. They were found guilty; and Christian, who met his fate with great firmness, was shot to death, 2d of January, 1662. An inquiry was held respecting their proceedings before the privy council at Whitehall, 14th of August, 1663, when they were pronounced illegal, and contrary to the act of indemnity. Christian's estate was appointed to be restored to his heirs, and his associates to be set at liberty. There seems, however, to be great doubt as to the legality of this judgement, Man being in many respects a separate kingdom, governed by its own laws, and not subject to those of England.

ner how the King of Scots took Shipping at Gravesend, on the 4th of this instant Oct. with Captain Hind, disguised in Seamans Apparel, and safely arrived in the Hague in Holland.

On Wednesday last, being the fifteenth of this inst. October, the Earl of Derby was brought to the place of execution (the scaffold being erected and set up in the place where the cross formerly stood) attended by divers gentlemen and others; and where were present many hundreds of people who came from several parts adjacent to behold this object of compassion. As soon as his lordship came upon the scaffold, he took up the block and kissed it, saying, "I hope there is no more but this block between me and heaven; and I hope I shall never tire in my way, nor go out of it." Then turning to the people and putting off his hat, he spake as followeth:

"Christian Gentlemen and People,

"Your business hither to day, is to see a sad spectacle, a peer of the land to be in a moment unman'd, and cut off by an untimely end: And though truly, if my general course of life were but enquired into, I may modestly say, there is such a morall honesty upon it, as some may be so peremptory as to expostulate why this great judgment has fallen upon me: But know that I am able to give them and myself an answer, and out of this breast (laying his hand upon his heart) to give a better accompt of my judgment and execution then my judges themselves or you are able to give: It is Gods wrath upon me for sins long unrepented, of many judgments withstood, and mercies slighted; therefore God hath whipped me by his severe rod of correction, that he might not loose me: I pray join with me in prayer, that it may not be a fruitless rod, that when by this rod I have laid down my life, by this staffe I may be comforted and received into glory.

"As for my accusers, I am sorry for them: they have committed Judas his crimes: but I wish and pray for them Peters teares, that by Peters repentance they may escape Judas his punishment, and I wish other people so happy, they may be taken up betimes, before they have drunk more blood of Christian men, possibly less deserving then myself.

"It is true, there have been several addresses made for mercy, and I will put the obstruction of it upon nothing more then upon my own sin, and seeing God sees it not fit (I having not glorified him in my life) I might do it in my death, which I am content to do: I profess in the face of God no particular malice to any one of the state of parliament; to do them a bodily injury I had none.

"For the cause in which I had a great while waded, I must needs say, my engagement or continuance in it hath laid no scruple upon my conscience; it was on principles of law, the knowledgment whereof I embrace, and on principles of religion, my judgment satisfied, and conscience rectified, that I have pursued those ways for which, I bless God, I find no blackness upon my conscience, nor have I put it into the beadroll of my sins.

"I will not presume to deside controversies; I desire God to honour himself in prospering that side that hath right with it, and that you may enjoy peace and plenty, when I shall enjoy peace and plenty beyond all you possess here: In my conversation in the world, I do not know where I have an enemy with cause, or that there is such a person to whom I have a regret: But if there be any whom I cannot recollect, under the notion of Christian men, I pardon them as freely as if I had named them by name; I freely forgive them, being in free peace with all the world, as I desire God for Christ sake to be at peace with me. For the business of death, it is a sad sentence in itself, if men consult with flesh and blood: But truly without boasting, I say it, or if I do boast, I boast in the Lord, I have not to this minute had one consultation with

the flesh about the blow of the ax, or one thought of the ax, more than as my passeport to glory.

" I take it for an honour, and I owe thankfulnesse to those under whose power I am, that they have sent me hither to a place however of punishment, yet of some honour, to die a death exceeding worthy of my blood, answerable to my birth and qualification, and this courtesie of theirs hath much helped towards the pacification of my mind.

" I shall desire God that those gentlemen in that sad bedroll to be tried by the high court of justice, that they may find that really there that is nominal in the act, an high court of justice, a court of high justice, high in its righteousness, though not in its severity: Father forgive them, and forgive me as I forgive them.

" I desire you that you would pray for me, and not give over praying till the hour of death, nor till the minute of death, for the hour is come already, that as I have a very great load of sins, so I may have the wings of your prayers to help those angels that are to convoy my soul to heaven, hoping this day to see Christ in the presence of the Father, and myself there to rejoyce with all other saints and angels for evermore.

"One thing more I desire to be clear in: There lieth a common imputation upon the kings party, that they are papists, and under that name we are made odious to those of the contrary opinion: I am not a papist, but renounce the pope with all his dependencies. When the distractions in religion first sprang up, I might have been thought apt to turn from this church to the Roman, but was utterly unsatisfied in their doctrine in point of faith, and very much as to their dissipline. The religion which I profess is that which passeth under the name of Protestant, though that be rather a name of distinction, then properly essential to religion; but the religion which was found out in the Reformation, purged from all the errours of Rome, in the reign of Edward the 6. practised in the reigns of Queen Elizabeth, King James, and King Charles, that blessed prince deceased, that religion before it was defaced, I am of; which I take to be Christs catholique, though not the Roman catholique religion; in the profession and practice whereof I will live and die, that for my religion." Then he turned himself unto the executioner: " I have no reason to quarrel with thee, thou art not the hand that throws the stone———— there is 3*l.* for thee.

Now tell me what I lack?" *Executioner.* " Your hair to be turned up, my lord." " Shew me how to fit myself upon the block." After which, his doublet being off and hair turned up, he turned again to the people and prayed a good while. Before he laid down upon the block, he spoke again to the people, *viz.* "There is not one face that looks upon me, though many faces, and perhaps different from me in opinion and practice, but (me thinks) hath something of pitty in it, and may that mercy which is in your hearts, fall into your own bosoms when you have need of it; and may you never find such blocks of sin to stand in the way of your mercy as I have met with. I beseech you joyn with me in prayer." Then he prayed (leaning on the scaffold) with an audable voice for about a quarter of an hour; having done, he had some private conference with Dr Green; then taking his leave of his friends and acquaintance, saluting them all with a courteous valediction, he prepared himself for the block; kneeling down said, " Let me try the block," which he did. After casting his eyes up, and fixing them very intentively upon heaven, he said, " When I say Lord Jesus receive me, executioner, do thine office;" then kissing the ax he laid down, and with as much undaunted, yet christian courage as possibly could be in man, did he expose his throat to the fatall ax, his life to the executioner, and commended his soul into the hands of God, as into the hands of a faithfull and mercifull Creator, through the meritorious passion of a gracious Redeemer: saying the forementioned words, his head was smitten off at one blow.

The Earl of Derby, his Funeral Sermon; preached by Doctor Green, on Tuesday in the Afternoon, before his Lordship was executed.

Beloved, when we come to die, we shall be stript naked of three things: 1. We shall be stript naked of all our worldly honours, riches, and greatnesse. 2. We shall be stript naked of our bodies. And 3. Which is above all, we shall be stript naked of our sins. And that is the happines of a child of God, he shall put off, not only his mortal body, but the body of sin.

4. In the fourth place observe, as no man knoweth the time when he fals asleep, a man fals asleep before he is awarre; so no man can tell the certain time when he must die. There is nothing so certain as that we must die, nothing so uncertain as the time when we shall die: Death comes suddenly, even as sleep comes upon a man before he is aware.

5. When a man goeth to sleep, he goeth to sleep but for a certain time, in the morning he awakes out of sleep; so it is with the sleep of death, and therefore death is called a sleep, because we must all awake in the morning of the resurrection. We are in the grave as in our beds, and when the trumpet of God and the voice of the archangel shall sound, we shall all rise out of our grave as out of our beds. Death is but a sleep for a certain time.

6. Sleep is a great refreshing to those that are weary and sick, and when the sick man awakes, he is more lively and chearful then he was when he fell asleep, and therefore sleep is called *Medicus laborum redintegratio virium recreator corporum*, the great physician of the sick body, the redinte-gration of mans spirits, the revivor of the weary body; and so it is with death, when Gods people awake out of the sleep of death, they shall be made more active for God then ever they were before; when you lie down in the grave, you lie down with mortal bodies; it is sown a mortal body, but it shall rise up an immortal body; it is sown in dishonour, but it shall rise up in honour; it is sown a natural body, but it shall rise up a spiritual body.

7. When we rise out of our beds we then put on our cloathes; so in the morning of the resurrection we shall put on a glorious body, like to the glorious body of Jesus Christ; we shall put on *stolam immortalitatis*, the garment of immortality.

8. As no man when he layeth him down to sleep knoweth the direct time when he shall awake; so no man can tell when the resurrection shall be. They do but couzen you, who say that the general resurrection shall be such or such a year; for as no man can know the minute when he shall awake out of his natural sleep, no more can any man know when we shall arise from the sleep of death.

9. It is a very easie thing to awake a man out of sleep; it is but jogging of him, and you will quickly awake him.

10. As when a man ariseth in the morning, though he had slept many hours, nay, suppose he could sleep 20 yeares together, yet notwithstanding when he awakes, these 20 yeares will seem to be but as one hour unto him; so it will be at the day of judgment, all those that are in their graves, when they awake it will be *tanquam somnus unius horæ*, but as the sleep of an hour unto them.

Lastly and most especially. As sleep seizeth onely upon the body, and the outward senses, but doth not seize upon the soul, the soul of man is many times most busie, when the man is a sleep; and God hath heretofore revealed most glorious things to his children in dreams when they have ben asleep: God appeared unto Abraham and many others in dreams: the body sleeps but the soul awakes. So it is with the sleep of death,

the body that dies, but the soul doth not die. There are some men that are not afraid to teach you, that the soul sleeps as well as the body, and that when the body dies and fals asleep, the soul likewise continues in a dull lethargy, *veternoso somno correptus*, neither capable of joy nor sorrow, until the resurrection. Beloved, this is a very uncomfortable and a very false doctrine. They indeavoured to prove it from my text; they say, that Stephen when he died fell asleep; it is true, in regard of his body, he fell asleep, but his soul did not fall asleep; that which was stoned fell asleep, which was his body onely; for when he was stoning, he saw Jesus Christ standing ready to receive his soul into heaven; Lord Jesus, saith he, receive my spirit. Stephens soul could not be stoned, though his body was stoned. So when Jesus Christ was crucified, his soul was not crucified. I mean, when his body was killed, his soul was not killed: indeed he did endure torments in his soul, which made him cry out, My God, my God, why hast thou forsaken me? But yet his soul did not die. So when Stephen died, his soul went to Christ. It is true, when a child of God dies, the soul goes to sleep; how is that? The soul goes to sleep in a scripture-sense, that is, it goes to rest in Abrahams bosom (O blessed sleep!) it goes to rest in the imbraces of God, it goes into the arms of its Redeemer, it goes to the heavenly paradise, it goes to be alwayes present with the Lord. But take heed of that wicked opinion, to say, that the soul sleeps in an anabaptistical sense; that is, that it lies in a strange kind of lethargy, neither dead nor alive, neither capable of joy nor sorrow, untill the resurrection. Though Stephens body fell asleep, yet his soul did not fall asleep, but immediately went unto Jesus Chrits in Heaven. Thus I have given the explication of the words.

Now give me leave to make some application of all unto ourselves.

If the death of Gods children be nothing else but a falling asleep, then let this comfort us against the deaths of our godly friends, though they die unnatural and violent deaths, tho' they be stoned to death, tho' they be burnt to ashes, though they be sawn asunder, &c. Here is a message of rich consolation, which as a minister of Christ I hold out unto you this day, viz. That the death of a child of God, let it be after what manner soever it will, it is nothing else but a falling asleep; he goes to his grave as to his bed; and therefore our burying places are called *xominetèria*, *dormitoria*, our sleeping-houses. A child of God when he dies lies down in peace, and enters into his rest.

Dr Green (he being upon the scaffold) spake as followeth to the Earl of Derby:

You have this morning, in the presence of a few, given some accompt of your religion, and, under generall notions or words, have given an accompt of your faith, charity, and repentance.

To those on the scaffold, if you please to hear the same questions asked here, you shall find that it may be a general testimony to you all, that he died in the favour of God.

Now, sir, I begin to deal with you: You do acknowledge that this stroak you are by and by to suffer is a just punishment laid upon you by God, for your former sins?

Derby. I dare not only not deny it, but dare not but confess it; I have no opportunity of glorifying God more, than by taking shame to myself, and I have a reason of the justice of God in my own bosome, which I have put to your bosome.

Doctor. You acknowledge you deserve more then this stroak of the ax, and that a far greater misery is due to you, even the pains and torments of hell that the damned there endure?

Derby. I know it is due in righteous judgment, but I know again I have a satisfaction made by my elder brother, Christ Jesus, and then I say it is not due, 'tis due from me, but quitted by his righteousnesse.

Doctor. Do you believe to be saved by that Mediator, and none others?

Derby. By that and that only, renouncing all secondary causes whatsoever.

Doctor. Are you truly and unfainedly sorry before God, as you appear to us, for all those sins that have brought you hither?

Derby. I am sorry, and can never be sorrowful enough, and am sorry I can be no more sorry.'

' That the account of this tragedy may be as full as possible, we have extracted a true account of the Earl Derby's behaviour while under condemnation and at his execution, drawn up by Mr Bagaley, a gentleman who attended him. It is a MS. in possession of the Derby family, and was printed by Collins in his Peerage.

"Upon Monday, October 13, 1651, my lord procured me liberty to wait upon him, having been close prisoner ten days. He told me, the night before Mr Slater, Col Duckingfield's chaplain, had been with him from the governour, to persuade his lordship that they were confident his life was in no danger; but his lordship told me he heard him patiently, but did not believe him; "for," says he, "I was resolved not to be deceived with the vain hopes of this fading world." After we had walked a quarter of an hour, he discoursed his own commands to me, in order to my journey to the Isle of Man, as to his consent to my lady, to deliver it on those articles my lord had signed, with many affectionate protestations of his honour and respect of my lady, both for her birth and goodness as a wife, and much tenderness of his children there.

"Then immediately came in one Lieutenant Smith, a rude fellow, and with his hat on; he told my lord he came from Col. Duckingfield the governour, to tell his lordship he must be ready for his journey to Boulton: my lord replied, When would you have me to go? To-morrow, about six in the morning, said Smith. Well, said my lord, commend me to the governor, and tell him by that time I will be ready. Then Smith said, Doth your lordship know any friend or servant that would do the thing that your lordship knows of? My lord replied, What do you mean? Would you have me find one to cut off my head? Smith replied, Yes, my lord, if you could have a friend. My lord said, Nay, sir, if those men that would have my head will not find one to cut it off, let it stand where it is. I thank God, my life has not been so bad, that I should be instrumental to deprive myself of it, though he has been so merciful to me as to be well resolved against the worst terrors of death. And for me and my servants, our ways have been to prosecute a just war by honourable and just means, and not by those ways of blood which to you is a trade. Then Smith went out, and called me to him, and repeated his discourse and desires to me. I only told him my lord had given him an answer. At my coming again my lord called for pen and ink, and writ his last letter to my lady, to my Lady Mary, and his sons, in the Isle of Man. And in the mean time Monsieur Paul Moreau, a servant of my lord's, went and brought all the rings he could get, and lapped them up in several papers, and writ within them, and made me subscribe them to all his children and servants. The rest of the day, being Monday, he spent with my Lord Strange, my Lady Catherine, and my Lady Amelia. At night about six I came to him again, when the ladies were to go away; and as we were walking, and my lord telling me he would receive the sacrament next morning and on Wednesday morning both, in came the aforesaid Smith, and said, My lord, the governor desires you will be ready to go in the morning by seven o'clock. My lord replied, Lieutenant, pray tell the governor I shall not have occasion to go so early; by nine o'clock will serve my turn, and by that time I will be ready; if he has not earnester occasions he may take his own hour. That night I staid, and at supper my lord was exceeding cheerful and well composed; he drank to Sir Timothy Featherstone, (who was a gentleman that suffered at Chester a week after in the same cause) and said, Sir, be of good comfort, I go willingly before you, and God hath so strengthened me, that you shall hear (by his assistance) that I shall so submit, both as a Christian and a soldier, as to be both a comfort and an example to you. Then he often remembered my Lady Mary, with my lady his wife, and his sons, and drank to me and all his servants, especially Andrew Broom; and said he hoped that they that loved him would never forsake his wife and children, and he doubted not but God would be a father to them and provide for them after his death.

"In the morning my lord delivered to me the letters for the island, and said, Here, Bagaley, deliver these with my tender affections to my dear wife and sweet children, which shall continue with my prayers for them to the last minute of my life. I have instructed you as to all things for your journey. But as to that sad part of it (as to them) I can say nothing: silence and your own looks will best tell your message. The great God of Heaven direct you, and prosper and comfort them in this their great affliction. Then his lordship took leave of Sir Timothy Featherstone, much in the same words as over night. When he came to the castle-gate, Mr Cressen and three other gentlemen, who were condemned, came out of the dungeon (at my lord's request to the marshal) and kissed his hand, and wept to take their leave. My lord said, God bless and keep you; I hope my blood will satisfy for all that were with me, and you will in a short time be at liberty; but if the cruelty of these men will not end there, be of good comfort, God will strengthen you to endure to the last, as he has done me: for you shall hear I die like a Christian, a man, and a soldier, and an obedient subject to the most just and virtuous prince this day living in the world.

"After we were out of town, the people weeping, my lord, with an humble behaviour and noble courage, about half a mile off, took leave of them; then of my Lady Catherine and Amelia, upon his knees by the coach side (alighting for that end from his horses,) and there prayed for them, and saluted them, and so parted. This was the saddest hour I ever saw, so much tenderness and affection on both sides.

"That night, Tuesday the 14th of Oct., 1651, we came to Leigh; but in the way thither, his lordship, as

A Perswasive to a mutuall Compliance under the present Government; together with a Plea for a Free State compared with Monarchy.

ROM. 13. 1. The powers that be are ordained of God.
PROV. 11. 14. In the multitude of councellours there is safety.

Oxford, printed in the year 1652.

Mr Hume has remarked, that there were great numbers during the time of the Commonwealth, who made it a principle always to adhere to any power that was uppermost, and to support the established government. "This maxim," he drily adds, "is not peculiar to the people of that

we rode along, called me to him, and bid me, when I should come into the Isle of Man, to commend him to the archdeacon there, and tell him he well remembered the several discourses that had passed between them there, concerning death and the manner of it; that he had often said the thought of death could not trouble him in fight or with a sword in hand, but he feared it would something startle him, tamely to submit to a blow on the scaffold; but, said his lordship, tell the archdeacon from me, that I do now find in myself an absolute change as to that opinion; for I bless God for it, who hath put this comfort and courage into my soul, that I can as willingly now lay down my head upon the block as ever I did upon a pillow.

"My lord supped a competent meal, saying he would imitate his Saviour; a supper should be his last act in this world, and indeed his Saviour's own supper before he came to the cross, which would be to-morrow. At night, when he laid him down upon the right side, with his hand under his face, he said, Me thinks I lie like a monument in a church, and to-morrow I shall really be so.

"As soon as he rose next morning, he put on a fresh shirt, and then said, This shall be my winding-sheet, for this was constantly my meditation in this action. See, said he to Mr Paul, that it be not taken away from me, for I will be buried in it.

"Then he called to my Lord Strange to put on his order, and said, Charles, once this day I will send you it again by Bagaley, pray return it to my gracious sovereign when you shall be so happy as to see him, and say, I send it in all humility and gratitude, as I received it, spotless and free from any stain, according to the honourable example of my ancestors.

"Then we went to prayer, and my lord commanded Mr Greenhaugh to read the Decalogue, and at the end of every commandment made his confession, and then received absolution and the sacrament; after which and prayers ended, he called for pen and ink, and wrote his last speech, also a note to Sir E. S.

"When we were ready to go, he drank a cup of beer to my lady and Lady Mary, and Masters and Mr Archdeacon, and all his friends in the island, and bid me remember him to them, and tell the archdeacon, he said the old grace he always used, &c. Then he would have walked into the church and seen Mr Tildesley's grave, but was not permitted, nor to ride that day upon his own horse; but they put him on a little nag, saying they were fearful the people would rescue his lordship.

"As we were going in the middle way to Bolton, the wind came easterly, which my lord perceived, and said to me. Bagaley, there is a great difference between you and me now, for I know where I shall rest this night, in Wigan, with the prayers and tears of that poor people; and every alteration moves you of this world, for you must leave me to go to my wife and children in the Isle of Man, and are uncertain where you shall be; but do not leave me, if possible you can, until you see me buried, which shall be as I have told you.

"*Some remarkable Passages in my Lord's going to the Scaffold, and his being upon it, with his last Speech and dying Words.*[1]

"Betwixt twelve and one o'clock on Wednesday, (October 15) the Earl of Derby came to Bolton, guarded with two troops of horse and a company of foot; the people weeping and praying all the way he went, even from

[1] This is printed in Peck's Desiderata Curiosa.

age; but what may be esteemed peculiar to them is, that there prevailed a hypocritical phrase for expressing so prudential a conduct; it was called a waiting upon Providence." To one of these prudential class of persons we seem to be indebted for the ensuing tract, written shortly after Cromwell's exaltation to supreme power, and containing most of the arguments which are usually employed to reconcile a people to submit to usurped authority.

To his Excellency the Lord General Cromwell.

My Lord,

It is hoped your excellency may pardon this boldnesse, upon the consideration that this poor mite offered in zeale, may longer beare your superscription then choicer pieces cast into the treasury of your desert, by greater and more popular pens; however, his election cannot be blamed, that seeks shelter under that tree of honour, which, during

the castle, his prison at Chester, to the scaffold at Bolton, where his soul was freed from the prison of his body. His lordship being to go to a house in Bolton, near the cross, where the scaffold was raised, and passing by, he said, This must be my cross. And so going into a chamber with some friends and servants, had time courteously allowed him by the commander in chief till three o'clock that day, the scaffold not being ready, by reason the people in the town refused to strike a nail in it, or to give them any assistance; many of them saying, that since these wars they have had many and great losses, but none like this, it being the greatest that ever befel them, that the Earl of Derby should lose his life there and in such a manner. His lordship, as I told you, having till three o'clock allowed him, I spent that time with those that were with him, in praying with them, and telling them how he had lived, and how he had prepared to die, how he feared it not, and how the Lord had strengthened him and comforted him against the terrors of death; and after such like words he desired them to pray with him again; and after that giving some good instructions to his son, the Lord Strange, he desired to be in private, where we left him with his God, where he continued upon his knees a good while in prayer. Then called for us again, telling how willing he was to die and part with this world, and that the fear of death was never any great trouble never since his imprisonment, though he had still two or three soldiers with him night and day in the chamber, only the care he had of his wife and children, and the fear what would become of them was often in his thoughts; but now he was satisfied that God would be a husband and a father to them, into whose hands he committed them: and so taking leave of his son and blessing him, he called for the officer, and told him he was ready. At his going towards the scaffold the people prayed and cried, and cryed and prayed. His lordship with a courteous humbleness said, Good people, I thank you all, I beseech you pray for me to the last: the God of Heaven bless you; the Son of God bless you; and God the Holy Ghost fill you with comfort. And so coming near the scaffold, he laid his hand on the ladder, saying, I am not afraid to go up here, though I am to die there; and so he kissed it and went up, and walking a while upon the scaffold, settled himself at the east end of it, and made his address to the people thus, viz.

"I come and am content to die in this town, where I endeavoured to come the last time when I was in Lancashire, as to a place where I persuaded myself to be welcome, in regard the people thereof have reason to be satisfied in my love and affection to them, and that now they understand sufficiently. I am no man of blood as some have falsely slandered me, especially in the killing of a captain in this town, whose death is declared on oath, so as the time and place now appears under the hand of a Master of Chancery, besides the several attestations of a gentleman of honour in the kingdom, who was in the fight in this town and country; and I am confident there are some in this place who can witness my mercy and care for sparing many mens lives that day.

"As for my crime (as some are pleased to call it) to come into this country with the king, I hope it deserves a better name; for I did it in obedience to his call, whom I hold myself obliged to obey, according to the protestation I took in parliament in his father's time. I confess I love monarchy, and I love my Master Charles, the second of that name, whom I myself proclaimed in this country to be king. The Lord bless him and preserve him; I assure you he is the most goodly, virtuous, valiant, and most discreet king that I know lives this day; and I wish so much happiness to this people after my death, that he may enjoy his right, and then they cannot want their rights. I profess here in the presence of God, I always sought for peace, and I had no other reason, for I wanted neither means nor honours, nor did I seek to enlarge either. By my king's predecessors, mine were raised to an high condition, it is well known to the country; and it is as well known, that by his enemies I am condemned to suffer by new and unknown laws. The Lord send us our king again, and our old laws again, and the Lord send us our religion again.

"As for that which is practised now, it has no name, and me thinks there is more talk of religion than any good effects of it.

"Truly to me it seems I die for God, the king, and the laws, and this makes me not be ashamed of my life, nor afraid of my death.

the storms of so many contrary factions, hath not onely shadowed all formerly owned by antiquity, but may chill the hands of posterity with despair of ever being able to match your actions hereafter. For those most celebrated for their valour and conduct did but gleane repute amongst the thornes of contrary and doubtfull successes, whereas

"At which words, the king and laws, a trooper cried, We have no king, and we will have no lords. Then some sudden fear of mutiny fell among the soldiers, and his lordship was interrupted, which some of the officers were troubled at, and his friends much grieved, his lordship having freedom of speech promised him. His lordship seeing the troopers scattered in the streets, cutting and slashing the people with their swords, said, What's the matter, gentlemen, where's the guilt, I fly not, and here is none to pursue you? Then his lordship perceiving he might not speak freely, turned himself to his servant and gave him his paper, and commanded him to let the world know what he had to say, had he not been disturbed; which is as follows, as it was in my lord's paper under his own hand:

"My sentence (upon which I am brought hither) was by a council of war, nothing in the captain's case alledged against me; which council I had reason to expect would have justified my plea for quarter, that being an ancient and honourable plea amongst soldiers, and not violated (that I know of) till this time, that I am made the first suffering precedent in this case. I wish no other suffer in like case.

"Now I must die, and am ready to die, I thank my God, with a good conscience, without any malice or any ground whatever; though others would not find mercy upon me, upon just and fair grounds, so my Saviour prayed for his enemies, and so I do for mine.

"As for my faith and your religion, thus much I have to say:

"I profess my faith to be in Jesus Christ, who died for me, from whom I look for my salvation that is through his only merit and sufferings; and I die a dutiful son of the church of England, as it was established in my late master's time and reign, and is yet professed in the Isle of Man, which is no little comfort to me.

"I thank my God for the quiet of my conscience at this time, and the assurance of those joys that are prepared for those that fear him. Good people pray for me, I do for you: the God of Heaven bless you all and send you peace; that God that is truth itself give you grace, peace, and truth. Amen.

"Presently after the uproar was ceased, his lordship walking on the scaffold, called for the headsman, and asked to see the axe, saying, Come, friend, give it me into my hand, I'll neither hurt it nor thee, and it cannot hurt me, I am not afraid of it; but kissed it, and so gave it the headsman again. Then asked for the block, which was not ready; and turning his eyes and said, How long, Lord, how long? Then putting his hand in his pocket, gave him two pieces of gold, saying, This is all I have, take it and do thy work well, and when I am upon the block and lift up my hand, then do your work; but I doubt your coat is too burley, (being of black shag) it will hinder you or trouble you. Some standing by bid him ask his lordship forgiveness; but he was either too sullen or too slow, for his lordship forgave him before he asked him. And so passing to the other end of the scaffold, where his coffin lay, spying one of his chaplains on horseback among the troopers, said, Sir, remember me to your brothers and friends; you see I am ready and the block is not ready, but when I am got into my chamber, as I shall not be long out of it, (pointing to his coffin,) I shall be at rest, and not troubled with such a guard and noise as I have been; and so turning himself again, he saw the block, and asked if it was ready, and so going to the place where he began his speech, said, Good people, I thank you for your prayers and for your tears, I have heard the one and seen the other, and our God sees and hears both. Now the God of Heaven bless you all. Amen. And so bowing, turned himself towards the block, and then looking towards the church, his lordship caused the block to be turned and laid that ways, saying, I will look towards the sanctuary which is above for ever. Then having his doublet off, he asked, How must I lie? Will any one shew me? I never yet saw any man's head cut off, but I will try how it fits; and so laying him down, and stretching himself upon it, he rose again, and caused it to be a little removed; and standing up and looking towards the headsman, said, Remember what I told you, when I lift up my hand, then do your work.

"And looking at his friends about him, bowing, said, The Lord be with you all, pray for me; and so kneeling on his knees, made a short and private prayer, ending with the Lord's Prayer. And so bowing himself again, said, The Lord bless my wife and children, the Lord bless us all. So laying his neck upon the block, and his arms stretched out, he said these words aloud:

"Blessed be God's glorious name for ever and ever. Amen.

"Let the whole earth be filled with his glory. Amen.

"And then lifting up his hands, was ready to give up the ghost, but the executioner not well observing, was too slow; so his lordship rose again, saying to the headsman, What have I done that I die not? Why do not you your work? Well, I will lay myself down once again in peace, and I hope I shall enjoy everlasting peace. So he laid himself down again with his neck to the block, and his arms stretched out, saying the same words:

"Blessed be God's glorious name for ever and ever. Amen.

"Let the whole earth be filled with his glory. Amen.

"And then lifting up his hands, the executioner did his work, and no manner of noise was heard, but sighs and groans."—COLLINS's *Peerage*, *III.* 68, 75.

you, being the true master of the harvest of honour, never were knowne to returne without bringing your sheaves with you, which may be the lesse wondred at by those who observe how just an accomptant you are to your alone captain, the Lord of Hosts, in summing your bils of victory to his glory, not your own, who hath now not onely suffered you to build but to shut the gates of the temple of warre; and will no doubt inspire you with a patterne for that of peace, so that as you have begun with Joshua, you may end with Solomon. Jethro hath long since layd the platform how to make a people happy: and it were presumption to offer to prescribe farther unto master-builders; yet in particular for Oxford, of which Providence hath made you chancellour, may it be spoken without offence, that the university, however represented, retaines no surfeit of obstinacy or riches; your reformation being as sutable to her desires as your protection; if your wisdome apprehend a superfluity in one place, the next glance may possibly discover hundreds that want it; her misfortune is to be look'd upon as having laboured so long of a malignant feaver, that she is run past recovery in the bookes of prejudice, having nothing to redeeme her from ruine, but your pity and power; if you would be pleased to take her into your more peculiar protection, and not suffer her any longer to lye committed unto other hands then your owne, and such as under you and nearer her, shall be thought fit to put her into. Which she hath the greater hopes to obtaine, because more then ten times the number of good men assigned by God for the stoppe of the severest sentence ever pronounced against a city, listed themselves in one day under the noble governour that then was, without looking backe upon any thing of their own interest, esteemed vile in comparison of the publique safety and your honour.

There needs no more interruption be given to your weightier affairs, then to acquaint you that the author absents his name out of no other feare then to keep himselfe in a condition to doe you farther service; for though kings fall before you, their instruments may rise up against others that endeavour to give evidence to an opposite government, especially having no legions to defend him but your name, and the assurance he hath to be owned, as truly he is,

My Lord,
Your excellencyes most humble and
obedient servant.

Jan. 1, 165½.

To the Reader.

Not to stumble into the like folly with those who court their readers for applause, since the most are wont to crowd about new bookes, rather to note the blemishes then beauties of authors, hooting like boyes at all they find dissonant from what custome or education hath tuned their apprehensions to, and not considering that what seems harsh now, may, when it is perfectly scan'd, be most harmonious. I will say no more least I should seem to spread my endeavours to catch, &c.————This being only directed to such candid spirits as being themselves in quest of truth and the present quiet, cannot but love those that doe, though but weakely promote it.

A Perswasive to a mutuall Compliance under the present Government.

It was never thought safe, much lesse prudent, for a supprest party to be intemperate in speeches and turbulent in actions, especially having no power standing ready in the

eye of probability to protect them; neither are examples easily found (all provocations considered) of greater clemency then hath been used by our present governours, into whose hands God hath delivered, by an indubitable conquest, some in his anger as others in his mercy.

Though envie cannot charge me to have fallen from my first love, the true representative of England, yet I never wanted naturall bowels to those whom prejudice and other more selfish respects had unhappily cast on the other side; but did daily lay out my supplications, and the poor talent God intrusted me with, to buy them to the waies of peace. And therefore I am not so much to be suspected of partiality, but that I may possibly perswade, at least the vanquisht (and so in reason the most exasperated) to such a temper, as may render in their behalfe the prevailing power as admirable for moderation, as successe hath proclaimed them famous for their valour.

That no government extant this day can possibly be demolished by fowler hands then it was erected; that by the judgement of truth it selfe, a strong man ought not in reason to be bound but by one more mighty, and that the sword in all ages during the stormes of war, hath pretended to a priviledge of cutting such knots, as, under a more serene heaven, might have puzzled not only reason but religion to untie, are so notorious to all not wilfully or naturally blind in story, as he that should endeavour the proofe of it, would to the wise seem an owle rather then an Athenian. There being news of little else in all history both sacred and profane.

And though such changes are strangers to us hatched under a still peace, they were familiar to our fathers, whose births stood ordinary dated from some forraine conquest or their deaths from a civil dissention at home; yet, by the continuance of many of their names in the same possessions, it doth plainly appeare they had more patience and wisdome then perpetually to oppose irreconcileable minds to succesfull and irresistible powers. And where this was not observed, how fatall and impartiall the severity of conquest hath proved, is plain in Comines, who attests to have seen a branch of one of the most illustrious families in England, begging in Burgundy; whose duke, after that infamous defeat given him by the Helvetians, ran, as was supposed, the like fortune, his body not being found. Neither is there any thing likelier to cast our nobility and gentry into this condition, then a change by another warre, which will lie most heavy upon them, besides the uncertainty of the event; when as a quiet and timely submission would estate them or their children in an undoubted capacity to share in what is or shall be established, inabling them to alter what they may find amiss. Whereas otherwise it would be an act of the highest indiscretion for people so long beaten by the cruell stormes of a civil warre to refuse for the present any harbour, though never so incommodious, and to venture againe the wrack of so sacred a vessel as the commonwealth, for no richer commodities then an uncertain hope of boying up such honours, profits, and jurisdictions, as the feares, wilfulnesse, and evil counsels of those formerly at the helme, caused them to cast away; since experience hath taught us we may live happily without them. Neither are those thus desirous of alteration, able to procure it by their own strength, but must borrow of such suspected friends or known enemies as are unlikely to shew much more favour to their inviters, then those that shall labour to keep them out

Were it not more discretion to let her lye quietly a while in the dock under the trimming of our new masters, who cannot be long uncompel'd, if not by affection to themselves and their children, yet by strong necessity, to set her afloat under justice and government? Hitherto obstructed by your selves and new declared malignants, who have nothing to shew for their lives and fortunes but the mercy and courage of those they so bitterly exclaime against; yet are not able to screen themselves from their power, although as far from being pleased with it as they can be safe without it.

Others presuming on the articles conceded at Oxford or elsewhere, protest themselves injured by that innocent act for subscription, but did they please to look back now upon the naked condition they stood in then, destitute of all hope of reliefe, they might find greater cause to celebrate the goodnesse then arraigne of rigor, those did begirt them; for had the total destruction of those lords and gentlemen been so gratefull to the state, as some in spleen, others in ignorance, doe since represent, the siege need have been continued but a few daies, and all must have perisht by the hands of despaire, or without caution have cast themselves into those of mercy; or say the commanders in chiefe, (never known prodigall of blood or time) to give an honourable pretence for the rendition of that place, which the enemies had made impregnable by so many oathes and protestations, did yeeld to more then in reason could be asked or granted from so imperative a power, it cannot be imagined they meant to situate them in a higher condition then they were themselves, making that arbitrary and at the will of the vanquished, which is imposed without exception on all that overcame. By which they had not only bound their own hands from punishing all future disobedience, but left their enemies the liberty to subscribe to the ruine that they refuse, to the preservation of themselves and their country.

Consult seriously your own consciences, and catechise them with this question, What oathes, confiscations, restraints, and obligations, should have been imposed on all had survived your revenge, in case Providence had cast the die of war to the like advantage on your side? and you will not only blush at your own shame, but confesse yourselves doubly subdued, first by the valour, then the civility of those you pronounce the meanest of men.

The Norman conquest, hitherto the fairest flower in the crowne of our kings, and this of the armies, were cut out with the same iron, by the hand and direction of a like Providence; the difference is, he was a stranger, these natives. He established a monarchy, whose nature is to decline into tyranny; these a government stiled by all politicians free; and if you find it otherwise you may thank your selves, who will neither be happy nor suffer others, but oppose so obstinately the publique establishment, out of no more weighty reason, then to reinitiate splendid titles; so farre from being essentiall to humane felicity, that such nations as have them, were never thought the happiest, no more then those that want them the most miserable.

Were I so uncivil as to draw the curtayne charity hangs before the actions of dead princes, I could match out of the annals of your own government, as great disorders and oppressions as you note in this: the latter being rendred so much the more excusable, because, not only precedented by the former, but created and continued to prevent such mischiefs, as your implacable spirits doe foment in the hearts of ignorant and abused people; to whom, though a government be most necessarie, this kind or that is as absolutely indifferent. Yet if your doctine be infallible, that a king is only responsible to God for his worst actions, it cannot but increase al wise mens affections to a jurisdiction so modest, as to acknowledge their best correspondent to the people, at least in their representative; and if you will suffer such a government as these drive at quietly to be setled, it may be gest by Venice and the United Provinces (though inconsiderable for strength in respect of England) what wonders may be expected; the first having stood a bulwarke for above a thousand years against the Turkes, as the later hath from her infancy, a wall to the King of Spaine's incroachments.

I do not believe those daily alarums you give the state are beaten by your consciences, but the lowder passions of ambition and revenge; and if you could remaine quiet, you might abundantly satisfie both by sharing in the government, and helping farther to chastise the perfidious Scot, who (under God's vengeance for our sins) was, you think, the cause of all these distempers.

You are to blame if you have not already done your best to set up that interest, your

consciences for the present taught you to maintaine, and if so, you are freed from the shackells of all former oaths and engagements, man being bound to no performance beyond possibility. Yet least this should seem too weake a discharge for so much honour and fidelity as you pretend to owe your king, God hath called him to an higher court; and that he hath reserved all cognizance of the manner of his removal wholly to himselfe appears, by placing the authors of it above the reach of any power but his own.

It shall not be the project of this discourse either to naturalize or make invalid the lines of princes, though the truth or falshood of them is made so contingent by the infidelity of women, as it doth much abate my zeal, and may doe all others in the prosecution of their interests, before that of a free state; in a nation so exhausted and tattered by divisions already, as it cannot but expire under a milder conflict then these new and victorious governors will make, rather then part with their power, on which depend their heads, as deare to them as a crown can be to those that bid for it; who, being out of possession, are not so likely to find friends as enemies, especially in this conjuncture, when most nations have need of more swords then their own, and therefore likelier to borrow then lend assistance. Neither is it a slight omen of their continuance that the wise Spaniard courts them. As for France, they have worke sufficient cut out already, or, in case of want, we are neere enough to send them more. Concerning Danes and Swedes, they may, like the cat, desire the sweet milke of England, but will hardly venture wetting their feet, or the encountring an English navy; it being not likely that such forraine princes as stood still all the fathers time, who had an army might secure their landing, will in his vanquisht sons be active, who hath now almost nothing left to assure successe, but the unarmed discontent of some subjects, which cannot be so unadvised as to venture what is left at the curtesy of strangers, much lesse can their hopes be so buried in the despaire of the moderate government of their countrymen, as to think to measure out a better by the splinters of that broken reed Scotland, that hath no cleanlier way to redeeme her selfe from being the by-word and hissing of the world, for former treacheries towards their native kings, then by selling us and our children to a perpetuall slavery under one of their exasperated sons; neither durst they have ventured so much beating, had they not been encouraged by a mouldy prophecy, that England (in which you have a great share, and may keep it if you will be quiet), must be one day ruined by the basest of people, which, in their own apprehention, can be understood of none but themselves.

The apostle Paul commands Christians to submit to the present power for conscience sake, and justifies this precept so far by his own example, as to appeare before a court of justice, no lesse illegall in regard of the nation of the Jewes, then corrupt in respect of the judges; where by his rhetoricall expressions he teaches us to own all jurisdictions God hath pleased to endow with an imperative power, else we should deny that to the magistrate which we make no conscience to concede to theeves; from whom we take our selves to be happily discharged, if we escape only with the losse of our mony and a promise never to doe any thing to their prejudice.

Nor can I think Paul would have shewn lesse compliance, or used coarser language, had his triall fallen out in the daies of Galba, Otho, or Vitellius; the which had no stronger titles then the sword estated them in, being all strangers to the line of the first Cæsars, or any adopted by them.

Nay had Pisoe's conspiracy succeeded, and Rome by wise Seneca's perswasion been reduced to their ancient liberty, would the apostles unwillingnesse have been more to subscribe to that then the title of Nero? Can you think he would have pretended antiquated oathes, covenants, or I know not what protestations formerly exacted? which if offered, he could not have avoided, a refusall being as unsutable to his doc-

trine as safety: For we never heard newes, till these times, of state-martyrs; the primitive saints thinking all kingdomes too poore to dye for, but that of heaven.

Indeed Shimei, of the house of Saul, would needs be cursing where God blest; which gave occasion to Solomon to leave a precedent under which you are fallen for the like luxuriousnesse of speech. And here note by the way, how short lived the love and forgivenesse of princes are: Since the best, though he could forget Jonathan his friend, was sure to remember Shimei his enemy; both secured by covenant, the first of amity, the latter of charity, in acknowledgement of his kindnes in meeting him.

Now if David could not dye quietly intestate to revenge, what huge legacies may we expect from the heire of a father, who lost not only his crowne, but the head that ware it? Or if so much temperance might be found in his successor as might mortify so high provocations: Yet the daily cryes and clamours of the widows and fatherlesse, whose husbands, fathers, and estates, were lost in his defence, could not choose but call revenge up againe. It being an ordinary course for princes to esteem that part of their assistance as is lost in ill successe, so little below enimies, as they oftentimes confiscate their estates, only to encrease the encouragement of those from whom they hope to receive better. And if it be not the complexion of kings to be ingratefull, I pray give me the reason why Henry the 7th cut off Stanlies head, after he had set the crown upon his own?

Therefore let not the sound of your discontent be heard in other nations, to the prejudice of the happinesse of your own: By which the eares of all that delight in warre are so tickled, that the sea this iland is encompassed with were too shallow to keep them out, but that 'tis assisted by a greater depth of Gods mercy.

Such as oppresse unnecessarily the people shall never want enemies; nor those that truly stand for liberty, friends: Therefore have patience, and assure your selves, that God, which hath taught the army the waies to so much miraculous successe, will suddainly (after this generall submission I perswade to) inspire them with an enstablishment may make us happy; or, in case they neglect it, undoubtedly send as exemplary a ruine upon their own heads.

Let me therefore entreat you to imitate your ancestors, who suffered the crown of England with more patience to be transferred from one strangers head to another, then you doe contribute to the setting it on your own and your childrens, there being nothing able to render you uncapable of it, but an unseasonable desire to wring it out of their hands, who, I hope, have no more ambitious ends in retaining it so long, then to make it fit and easy for you: Neither can any be in a right capacity to receive it, till brought to such a temper as it is indifferent to them either to obey or command.

If you are so desirous the letter of the law should be exactly observed, doe nothing contrary to the sense of it, which is the preservation of the government in being; whose quiet it is now as naturally to intend, as it was formerly that of kings: Alter but the name, and contribute the like obedience, and you are just where you were. But if this be denied, doe not wonder that new trials are opposed to new offences: For if ordinary jurers will asign no punishment for them which act by the kings authority, it is fit the state should provide others to take care, that in case it be employed against their safety, such as doe it may not escape without punishment: since God, that hath given them such vast successes, hath also endued them with more prudence, then to be ruin'd by niceties.

Neither are they lesse resolved to defend themselves from unavoidable ruine, then you to obtaine a more uncertain reward. This makes me believe you would have as much reason to bewaile an absolute victory, as they a total losse. For in that case, if the nation should escape the tyranny of strangers, it were impossible to avoid falling into a greater of her own: It being the custome of all princes, to proportion the weight of the peoples fetters to their own feares. Now, how the cava-

liers can be free when the roundheads are slaves, is not to be found in the small volumne of my politicks.

Though the high presbyterian so suddenly swel'd with the hope he had swallowed of soveraignty, that he brake in the opinion of the people before he was able to set up for himself, by indeavouring to lay to every single parish, a power judged too unweldy for a dioces; yet I thought not to have taken him so soon in the habit of a malignant, which suits better with his passion then the gravity and piety he pretends to; or discretion, which cannot but dictate to him that he hath sinned past forgivennesse, by reducing the crown to the last extremity, and compelling the army by an unparalleld ingratitude to actions more sutable to his own, then the chief commanders former deportment; in which, if they lean'd too much on worldly policy, it was to avoid falling into that visible pit the heads of this party had contrived for them.

What religious observers of the covenant they have been, and what enemies to the known faults of the bishops, they with so much spleen exploded, may appeare by the multitudes of preferments, and bunch of steeples they have hung to their purse-strings: Besides their ungratefull desertion of that army, who, when they durst not trust their own side for fear of being betrayed, expunged by their faithfull valour that sentence of death, which those that seem to adhere to now had writ upon every wall against them.

Is it not a sad thing to see conscience like a cloake-bag, stuft with all carriages, be they foule or fair? Were not the papists truer friends to their countries peace; who upon a change in religion, and more to their generall disadvantage then this can be to any at enmity with Rome, swore allegiance to those of contrary tenents; the truth of which they so far maintained, as, in the year 88, many appeared with considerable forces in favour of a protestant queen, against him they stiled the most catholick king?

For those they call levellers, so many of their propositions as may concern the equall administration of justice and the liberty of the people, ought no doubt to be harkened unto: But their consciences being possibly agitated by subtiler heads then their own (the divell never being in a greater capacity to acte mischiefe, then when he is transformed into an angel of light) it behooves them to be wary, least, pretending to a government more exact then humane corruption is capable of, they doe not fall into a worse then ever yet was established: For if they create a division in the army they promote the ends of their enemies, and shall set up nothing but tyranny and the destruction of themselves and their party.

Then since this nation hath endured so many severall changes in these later years without any considerable diminution of her splendor and felicity, I heartily pray it may not run a severer fortune hereafter; which cannot be better prevented, then for all parties in their severall relations quietly to submit to this present government: Which having the only power of protection, cannot in justice be denied the duty of obedience. To perswade which the more easily, I most humbly beg of those in authority to concede to the just desire and tears of the nation.

FINIS.

A Plea for the present Government, compared with Monarchy.

Nothing makes me more sensible of the wrath of God for sinne, then the consideration, that want and oppression are become the ill consequents of that primitive blessing, increase and multiply; from whence the devill taking advantage on our naturall self-love, raiseth up covetousnesse, the parent of propriety; out of whose bosome result

all humane calamities: Amongst which this is one of the most severe; that it renders us uncapable to be governed without lawes, being too partial to judge uprightly betweene our own interest and our neighbours; so as where right is absent power steps in and supplyes her place.

This at first necessitated jurisdiction; and the example of one God might present a pattern for monarchy: But kings did so far deviate from this precedent, that they quite forgot their election was to encrease the felicity and ease of their subjects, not their owne: Which hath caused people in all ages to have recourse to armes; whereby sometimes they impaired, seldome mended, their condition: Because out of pride, ignorance, or a superstitious reverence to custome, they refused to entrust more then one with their obedience: And we have cause to believe that the exorbitant power and scandalous adoration given to princes (in which, like Prometheus, they robbe God of his divinity, bestowing the attributes of sacred worship and majesty upon a sinfull man) grew at the beginning out of the bitter root of idolatry; this dignity being at first found among the heathen, and never taken into one family by the people of God, till in likelyhood the goodness of David had allured them, and the wisdome of Solomon insnared them into an absolute tyranny under the house of Jesse: Which they saw so much cause to repent of, as ten tribes cast it off by a defection made legitimate by God himselfe. And what frequent changes followed appeares in sacred story; set downe no doubt not onely for the instruction of kings, but as a direction for subjects what to doe in such cases of oppression: Like causes being liable to the like effects.

Greece and Rome, from whom the grounds of learning are deduced, did suffer their wanton poets to endow their princes with the powers and names of their gods, and their gods with the vices of their kings; as adulteries, rapes, oppressions, thefts, &c. not sparing Jupiter himselfe, whom they challenge to have wrested the celestiall monarchy from his father Saturne: (in which is morallized the unnaturalnesse of ambition, breaking through all relations, though never so sacred.) But as the idols of the heathen cannot be distinguishable from ordinary stones, unlesse by the worship given them by those, who yet upon higher illuminations doe breake or cast them away, so though princes (such monsters in power) are able to dazle the weak eyes of ignorant men, by the false rages of divinity, the flattering clergy flash in the faces of such as oppose them. Yet it is no lesse then miraculous, that wise men should be so enamoured on the workes of their own hands, as to place such so near God, and to pronounce them unaccountable for personall faults, much lesse for those of so epidemicall a nature, that they concern the welfare of all; forgetting that flesh and bloud is of so wild a condition, that nothing can restraine it but the fearfull apparition of some visible punishment; and that other governments want not the blessings of the best of monarchies, yet stand uncharged with their inconveniences, it being possible to be a bad king, though a good man in an inferiour relation; the whole masse of history being scarce able to furnish out one in all points accomplished with so many regall virtues, as might compense the damages received from his predecessour, or him that did immediately succeed. Yet, dazled with the splendor of a title, whose foule originall continuance hath razed out of the memories of the most, the ignorant multitude doe, without any scrutiny after worth or conveniency, thinke themselves obliged to submit to the untry'd discretion of the next of the same line: So farre intrusted in England before the conquest, that the decision of all controversies lay incumbent in the person of the king onely, till corruption and oppression had given cause to mould reason into a more certaine law; which no respect to their subjects good, but onely their owne trouble or visible constraint, was able to tempt them to. Yet the people were so simple, that upon the least concession of ease, they buried the benefit which might have resulted from their expence of bloud and treasure in the same government, if not in the same person

they had opposed, who was made the more cunning, not the better, by any thing had pass'd; it being the businesse of all politique princes to rebate the edge of the lawes towards themselves, for whose moderation they were chiefly intended, and to render them mortall to the people; who in case they were too weake to make good the justest quarrell against their king, perished as traitors, when the true reason was perpetrated by their prince and his evill counsellours, who are ordinarily the first causers of commotions by their cruelty and oppressions.

Now the indiscretion of our ancestors hath beene such, tempted to it by the miseries incident to civil warre, as they gave concession to all the lawes reason or experience could present were likely to strengthen the security of the king in fact; so as the justest opposition in the subject lay under no slighter penalty then the losse of honour, goods, lands, and life. Forgetting that the stronger fortification was raised before the gates of kings, the more difficult they rendred all accesse to liberty, when ever they were invaded by tyranny, or the peoples conveniency should call for another government lesse ranting and expensive.

And I may be confident this could not have been effected with such ease, but upon a presumption that the power of parliaments was thought subordinate to any law, experience being barren of occasion to make demonstration where the legislative power should reside, in case of a rupture between the king and both or either house, never till now in dispute, though tacitly implied in the cases of such as tis known they have deposed (which questionlesse was done without the royall assent;) therefore, not being determinated in expresse words, it might be thought impossible a court so paramount should lye included under generall rules, esteemed in all grants unable to prejudice the crown, and therefore with better reason unbinding to the parliament, often known not only to dispose of that, but the heads that wore it, so farre as to determine some unable, some unworthy to governe. And if any should endeavour to set bounds to the power of this high court, it was as vaine an attempt as to limit the nation to such an extent of felicity; which could no longer hold in nature or reason, then those that did it were able by love or force to master her strength; which wisdome would perswade her to resume upon the first approach of advantage. Besides, the king owning himselfe but a third estate (as you may find in one of his well-pen'd declarations) he could not by his absence remove power so farre from the other, but that it did vertually remain in some hands for the good of the people (esteemed the supreme law) supposed in all probability to be more cordially intended by the other, by reason they were inseparable companions with the people in any good or evill redounded to them from the law; then by the prince, whose interest was single, and so farre remote from epidemicall ends, that he might by incroachment improve his condition to a selfe-advantage, raising a particular gaine at the cost of the publique; not probably to be intended by the nobility, unlesse their reason were quite lost in their dependance on the crown; but impossible to be projected by the commons, who after dissolution, and their power returned to those that gave it, all marks of distinction cease, and they are mingled with the rest of the people, being equall sharers in what losse or advantage the representative, in which they did reside, produced to the commonwealth.

Wherefore, if a parliament falls in pieces, as this hath done, so much legall power cannot remaine in both the other, as in the house of commons. The fairest, most narturall, and least partiall representative of the whole nation, whose true and unquestioned proxcies they are; the lords residing by birth, as the bishops (in these latter times) by favour, and both found by experience, rather to intend their owne ends, then the publique.

And for such as maintaine that we owed the liberty of electing parliaments to the benevolence of our kings, may as well say we were indebted to them for our being or

nature; which abhorres to hold felicity, and what is assigned for supportation, at the will of another; a servitude impossible to be imposed upon a major part that are masters of right reason.

Now for the king, I should not have looked for him among the three estates, much lesse have owned him for one of them, had he not pleased to name himself so, and, by this confession, made empty the formerly unquestion'd seat of the church; by which he rather did weaken then support the unnaturall and destructive pretence he made to a negative voyce: For where there is a parity in an unseparable union, it is impossible to find room for so much difference in power, as that the most single and suspected part (in regard of an experimented selfe-interest,) should determine of the fitnesse or inconveniency of what the other should present, without giving a stronger reason then his own will; never known, but upon a constraint, or for want of money, to contradict itself for the peoples good.

And though in cases of equall correspondency there might seeme some colour of justice, yet here there cannot, because the king professeth his person so farre out of the point-blank of law, as that he is responsible to none but God for the worst, not onely that he can doe himselfe, but suffer to be done by his instruments.

Therefore, since no tie can be made strong enough to restraine him from breaking in to his subjects most sacred immunities, this power must needs be too extravagant to mingle with theirs lesse interessed, who are so modest as to confesse themselves and their judgments implicitly contain'd in the suffrages of the major part, though the law pass'd be never so contrary to their sense: and I cannot but admire from whence this infallibility should at first be derived, which were no lesse madnesse for the people to give, then presumption in any, below a God, to receive.

Such as allow the king a negative voyce, forget they place the abstract of all the prudence, power, and probitie of the nation in one individuall; juells of too high value to be packt up in so single and weake vessels, as our English monarchs appeare to have beene: But were they better, they might upon this account enervate the gravest results of the supreme councell; yet denied by law and custome the ability to quash the sentence of an inferiour court of justice.

Then if no example can be produced of any king that hath voluntarily, and out of no more impulsive respect then mere conscience and indulgency to his poor prince-trodden people, offered a bill to abate the power he found so abused by his predecessours, and not likely to be better employed by such as might succeed, what greater impudence can there be then to maintaine, that this negative vote is claimed only to avoid the abolition of good lawes, and to hinder the passing of worse; since it is notoriously knowne, that all the customes people complaine of have beene intruded and still kept in being by the countenance of an exorbitant power pretended by kings; and therefore such a prerogative cannot be look'd upon as naturall and convenient, but destructive to the very essence of liberty, and consequently void in it selfe.

In case of minority, madnesse, and folly, the triall of the kings sufficiency is without question in the parliament; and if that be allowed to determine the extent of his power in contingencies, no wayes chargeable upon any as faults, shall wicked, contumacious, and destructive principles and practices be exempt from their cognizance? Since the fool or mad man cannot be lyable to so severe a censure as he that imployes his wit wholly to the destruction of his people. And if we trace our kings through all the paths their incroachments have made over the peoples immunities, we shall find it was not charity hath kept them from being more tyrannicall, but weapons and constraint, all our priviledges having beene first written, and in all ages forced to be copied out in the peoples bloud: An argument sufficient to prove, that little is to be expected from them in favour of the publique, but by constraint; kings intending

nothing more than the augmentation of their own arbitrary power. Therefore flattery rather than truth fonted them fathers of their country, to which they are in nothing sutable, unlesse in correction, the severest and least hospitable part of justice.

They indeed, as domestique fathers, are oftentimes suborn'd by a particular naturall love, to doe that which is destructive to the generall well being of a nation; as where an equall affection to their children shall cause a division of their kingdom into severall cantons; by which the whole is weakned in regard of the expence of more courts, and exposed to ruine by division; as is not without a precedent in story.

Next, the affection they bear to their female issue makes them raise great taxes to marry them, not onely sutable to their birth, but unlimited ambition; by which meanes a people are often made subject to the curse of a forrain jurisdiction. And in case it should happen to light upon France or Spaine, or any prince else unwilling to remove his throne farther from the sun, they must run the fortune of Naples, Sicily, Millan, Navarre, &c. who are so miserable as to be under the regiment of unnaturall strangers.

And say they should be so mad as to follow their ambitious humours in quest of honour out of their own territories, as Francis and John of France did, they may, like them, fall into captivity, and tie their kingdomes to harder conditions, and a greater ransome, then all the particular benefits redounding from that government are able to compense; or all the inconveniences objected to a popular state parallel; who are confess'd on all sides to be responsible for their mis-government, in parcell, as particular members; or in grosse, as the whole councell when dissolved. Whereas the flattering clergy and courtiers, by perverting the scriptures, have in a single person situated regality out of the reach of all question; so as he may shake or kicke about the world without any fear of other danger, then what the poets faine fell to Phaeton from Jupiter himselfe: Which cannot but perswade wise men to keep it out, where it never was; and upon all advantages to explode it, where misfortune hath brought it in.

Queene Elizabeth, though an excellent prince, yet incroach'd upon the English liberty, by denying them to enquire who should be her successour. The unnaturalnesse of this tyranny being hid from the eyes of the people (whose interest it was to know it) by the delicate and soft hand she carried over them; defective in nothing, in their imagination, but that it was fraile earth, and so subject to mortality. Which made the commons winke at the commitment of Pigot and Wentworth; valuing the satisfaction of her mind before the members of their owne body. Neither could they well have found weapons to have revenged this unparallel'd outrage, she standing so faire painted in her subjects hearts: Therefore, though they did well to passe by a fault they could not punish, yet the goodnesse of her raigne cannot be said to expiate the curse she brought in by this example, the unnaturalnesse of the Scotch line took advantage of; which I believe had never come in (especially without caution) but that the feare of the Londoners (wanting time to secure their wealth) and the basenes of the nobility, tempted them to betray themselves into the hands of those who were ever enemies to this nation. Now if there was so little care found in a queene, raised from a prisoner; and goodnesse in a king taken from the barren mountaines of Scotland, who could expect more gratitude then we have found in his son, that, to make good his fathers monopolies and his own illegall taxes, covered the kingdome with a sea of blood?

It is impossible for a popular government to be so expensive as these two last kings, though with Jeroboam they should sell themselves to work wickednesse; not having whereupon to bestow it, without making so palpable a demonstration of their covetousnesse, as the people would soon take notice thereof, and redresse it by their change or ruine, which might be obtained at an easier rate then by a warre; without which no monarch, though never so bad, is able to be removed; who commonly hath a power to

defend him proportional to his prodigality and the honours he throws about; by which those multitudes who only hope are as strongly taken as the few that enjoy benefit by him.

Now princes, though generally bad, doe yet admit of comparisons, as you may find the three degrees in Elizabeth, James, and Charles. For though Queen Elizabeth incroached upon the liberty of particulars, she maintained warre in France, the Low Countries, with Spaine and Ireland, yet never had unlawful tax, or more then two subsidies at once, which, put to the whole revenue of the crown (as I have heard) did not make 700000*l.* per annum, yet she kept a glorious court, paid all debts, and was never known to break her word with the subject. King James enters, who never paid army, built house, or was any way magnificently hospitable, yet scrued the revenue to a double proportion, sold and gave away inestimable quantities of woods and lands, omitting nothing wherein he might poll his subjects; yet died in debt, and scandalous for his breach of faith, besides the incomparable repute lost to the nation by the sale of the cautionary townes to the Dutch. King Charles succeeds, who answers the peoples love, and vowes for his safe returne from Spaine, and assumption to the throne, with a contempt of parliaments, and augmentation of the revenue (ship-mony cast in) to 1800000*l.* (yet never equaled the magnificence of Queen Elizabeth, nor the liberality of King James,) summes not to be concealed by a more popular state, or if possible, easy to be retrived by squeezing the purloiners; whereas this vast treasure mouldred away in masques and other effeminate vanities, no waies for the honour or safety of the state. Not to say more, whose businesse is only to shew the blessings of a free regiment, not all the curses attending the government, or faults incident to the persons of kings, which are rendered by our clergy incurable, as sheltred under a divine right.

But neither this foolish varnish daub'd on by flatterers, nor prescription itselfe, back'd by an unquestion'd consent of our fathers, can be of strength enough to dispossesse a people of so inherent a property, as nature hath estated all reasonable creatures in, *viz.* the choice of the laws they intend to be governed by, no more then a parliament, which is virtually the whole people, can bind posterity longer then shall sute with the will of the same power that did at first establish it. And if the parliament is oftentimes so cautious as to make laws probationary, can any think it sutable to the principles of reason, that a king (obnoxious to the frailties of other mortals) should be borne to a right above them, and left to an absolute liberty not only to doe what he please, but to cros any thing shall be offered from his subjects, by the inspiration of I know not what negative power? I wonder men are so indiscreet to give that to a child, fool, or mad man, which they deny to a grave, wise, and experimented pope, whom they call Antichrist, for nothing more justly then the arrogance he shews in advancing his single judgement above a counsel. And if things be rightly considered, you shall find them both hang upon the same irrationall string, and likely to drop into the same bottomles pit; the one vaunting to be vicar general for things temporall, the other for eternall.

Yet if we look neer we may find markes to demonstrate it was not thus from the beginning, that kings pretended to a negative power; as appears by the modest words he useth at the crossing of a bill offered to him, which are, *Le Roy s'advisera.* Though time and neglect may have taken such precedents of the file, as they have a number more, by which kings were chalked away to their duty, a thing by them so much abhorred, that the records in the Tower have suffered a continuall suppression. Besides it is notoriously known that this negative power so much insisted upon, and employed by the last king against the peace of the nation, hath in all ages been subordinate to the will of a wife or favourite, who have not seldome been found to give or sell it to the prejudice of the common-wealth.

Wherefore, if the inconveniences of kings assending without any opposition be so in-

sufferable, what mischiefe can escape the imagination, (if the sense) of that people, who have all of them, according to regal law, forfeited as traitors all that is deare to nature; either for opposing or want of assisting the dead king, should any of his line succeed, which formerly so shackled us, but is now unravelled by the same meanes it was twisted by William, stiled, though unjustly, the Conquerour?

As for places of scripture alleadged in favour of wicked princes, by which their parasites endeavour to remove them out of the way of question, they will upon examination rather prove suborned then competent witnesses, as taught to speak by intressed divines, whose power and estates were wholly dependant on the crown.

The extent of the jurisdiction of our monarchs held no proportion with that of Israel, confessed by God to be founded in his wrath, who used at first to allot them out of his own choice, which rendered it. if not presumption, yet useles to limit them by lawes; but after this prepared manna of just government ceased to drop upon them from heaven, they had reason to provide wholsome ordinances of their own, to preserve them from corruption, as we find the ten revolted tribes did by the prosesse against Naboth; whereas Solomon gave no other reason for the death of men then his will, by which alone Joab and his own brother were tried and condemned. And if want of wisdome, hast, or lack of experience, made the people forget their own conveniency, in the large extent of power they afforded them, I know no place of scripture binds us to follow their indiscretion, no more then it warrants our kings to imitate the vices of theirs. And after Solomon I doe not find any bad prince longer endured then the people were constrained out of meer necessity; to whose distruction also they were oftentimes incited by God himselfe, whose silence now cannot in reason be taken for his consent, because he heth long since forborne to speake unto us otherwaies then by written examples, which afford plenty of them deposed and put to death.

The mercinary lawyers, to keepe kings safe behinde the curtaine, (where they play at boh-peepe with justice, as their holy father the pope doth by religion,) make the king a party in cases touching life; by this means shrowding his person so securely under his office, as nothing could rescue the people from tyranny, but a through reformation of the common law.

For in the condition we stood, Magna Charta and other laws extorted from our kings in favour of the people are rendred invalid if kings were responsible for no misdeameanors; it being the lawyers position in all cases, that the king can do no wrong, though it is apparent that no mischief fell to us, but from his unlimited and usurped power. Since, therefore, so many years experience proclaims it a thing impossible to manacle a supremacy in one single individual, it cannot but be most safe to divide it amongst more, many not being so apt as one to be intoxicated by the fumes of power and flattery.

The childish love the common people beare the gaudy person of a king gives occasion to beleeve that popular governments are rather results of princes disorders, then the naturall effects of the peoples inclinations, and therefore founded with the more difficulty; but after establishment easiest maintained, wise men being apter to connive at a fault in this government, out of hope to have one day the happiness to mend, or commit it themselves.

The first monarchies were purely tyrannicall, as Babylon and Persia, who used to try both plaintif and defendant in a Starchamber of beasts; yet, though absolute tyrants over their people, so much enslaved to their own passions, as what was uttered against the life of the prophet in folly, was not after repealable in judgement. And under these arbitrary monsters the world laboured, till necessity, the pregnant mother of all conveniency, taught their subjects to temper them with lawes; but finding absolute princes of so faithlesse a nature, that they were not tenable by compact; delighting like the Demoniaques in the gospell, to rome in the estates and among the graves of their subjects,

some nations exploded them quite, as formerly severall citties of Greece and Rome, &c. and of later years the United Provinces, who having obtained their liberty, and so not being exhausted by the exorbitant and vast expences of a king, nor shackled by the distracted and contrary interests of a foolish and suborned counsel, were able from their infancy to teare such morsells out of the throat of his great catholick majesty, as the weaknesse of France suffered him to swallow, and the fears of King James caused him to sell to prevent the danger; he was perswaded by his jealousies, and some of his counsellors (more servants unto that state then to him) wayted upon the delivery or deniall of the cautionary townes to the King of Spaine; which this poore spot of earth doth not only dare to owne as their birthright, but have brought him to that passe, as he hath twice concluded peace with them, under the free notions of an independent state.

And some nations never at all admitted any kings, and such as are celebrated for most wisdome, felicity, and continuance, apparent in the state of Venice, who hath outlived the story of her own birth, and seen the often repeated funeralls of all the kingdoms in Europe being now by her account onward of her twelfth century. And though France seems to boast of little lesse continuance, deriving her originall from the uncertain history of Pharamond, supposed her first king; yet the impartial reader may find her subject to the discipline of strangers and her own inferior princes, till Lewis the Eleventh's wisdome had compounded for her wardship: and if Edward the Fourth, his contemporary, had been owner of so much prudence, as the free cantons of the Swisse, he had mis'd of his marke.

Fulnes of bread, that inclines a people to idolatry, makes them so proud and wanton, as to think any of their own body too mean to governe, choosing rather, with the frogs in the fable, a storke for their king, though it be his nature to devoure them, then a selected number of their own, tied in reason to preserve them, not perceiving that monarchy is a sacrilegious overcharging a single person with more honour and power, then so fraile a creature is able to beare without falling into the distempers of excesse, which renders industrious nations more capable of freedome, as neerer to a parity, then such as time and luxury have overstocked with nobility and gentry, who scorning to be subject to those of their own quality, and not so well able to tyrannize over inferiours upon their own single score, cry up princes, whose faults they cover with a false varnish, made up of an imaginary divine right, glistering only in the eyes of fools, wise men owning it as borrowed from the eastern idolaters, who were never better pleased then when they saw something carried before them gloriously adorned with the earerings, jewels, and spoyles of the people; which gives all polititians occasion to pronounce, that a prince cannot disparrage his affaires more, then by suffering his power to fall under a popular contest; nor a republick decline sooner into a tyranny, then by continuing that shadow which decency constraines free governments to retain of monarchy too long in one family, (as the Dutch did) without change or some vigorous opposition: For however insurrections, like thunders, are terrible for the present, they render liberty more serene and cleere; princes being apt, with Alexander, to apprehend themselves more then humane, unles they be now and then besprinkled with their own blood; affliction and opposition being better able to put them into the way of duty then flattery or prosperity; so as if feare were not more prevalent with them then love, subjects would be farre more miserable, since it is without question, that the interest of princes lookes with a contrary aspect to that of the people, his gaine being for the most part their losse, as in case of illegall taxes, which, if once carried cleer without question, are conveyed as an inheritance to their posterity, who improve rather then diminish any thing layed in charge by their predecessours; therefore governours out of their own body, in reason should be more naturall then these fathers in law, who see nothing about them but what they falsely imagine to be their own.

Now though a senate may have inclusively the same power, they are more tender of using it, for feare the evill consequence should reach their children, who in these impartiall governments mingle among the people, and participate of all their inconveniences; unless wisdome and good parts makes them capable of their fathers dignities; which happens rarely: Able statesmen finding their virtues commonly wanting in their children And this discovers another grosse inconvenience in successive kingdoms, where not only law and custome, but religion, if you trust regall divinity, teacheth the people to cry Hosanna to the next heyre; though nature, or which is worse, his wicked inclinations, render him unworthy the government of a asse: Whereas a senate is continually fill'd with the most able men.

Not to loose time in casting up the account antiquity made of this government; upon whose approbation it is the nature of men to looke through the prospective of multiplying opinion, as they doe upon lesse remote verities with the eies of envy and contradiction. The progresse and vertues of the state of Venice are patterns not found in the greatest, or match'd by the best of kings; who hath received nothing (her situation only excepted) but from the benevolence of heaven and her own vertue; which hath inabled her (though but a pamphlet in comparison of the voluminous power of other nations) to beare the opposition of all her neighbours in their turnes, and sometimes united by the malice of his Holiness; though armed with no more naturall weapons, then what her mony puts into the hands of strangers; (the most unhappy militia a state can imploy.) Yet because all her senatours look one way, and not a squint upon forreign interests, as the privadoes of our kings have beene knowne to doe, in relation to their respective pensions: Unity improves their small force to so much advantage, as they have for these latter yeares, not onely disputed the dominion of the seas with the grand seigniour, but forced him to wash away with his peoples bloud, divers markes of advantage his multitudes of souldiers had purchased him in the Levant. So as if monarchs were owners of so much Christianity, as to spend but the tith of what is consum'd yearly in masques, and such unnecessary vanities, this way (a thing not to be hoped for, till our good God have discovered to all nations the curse of monopolized authority) this enemy to Christ might be easily reduced; since all the force he can make returns him, from this single state, nothing but dishonour and losse: Whereas the greatest German Cæsar was never yet able to beare the least branch of his power, without imploring and receiving aide from most of christian princes, who are now so weltered in their own blood, as they omit the opportunity; thinking themselves more charitably imployed in the ruine of their own people, or neighbours. A lunacy could never befall them, were they not agitated by such ridiculous humours, as commonwealths disdaine to be affected withall; where there is no roome for any disputation about such triviall things as crabbid titles, legitimacy &c. all being ejected there as spurious that conduce not to honour or safety. And what advantage this state hath in the wise conduct of affaires may be easily discerned by any eye that shall passe over the transactions of this senate and Paul the fift, during the interdict; and compare them with the treaties of our King James with Spaine: the first redounding no lesse to the honour of that republique, then the latter to the shame and losse of this nation.

Neither are these advantages peculiar to Venice onely, but to be all found under this government; which officiating in the double capacities of a king and a councell both, cannot choose but be wiser then the first, and lesse subject to corruption then the latter; it being as unnatural for them to betray their owne power, as it is usuall with the greatest courtiers to sell the revelation of their masters most secret counsels.

Though offenders under free states are punished with the greatest severity, it is with the least injustice and partiality; single persons being more subject to be agitated by the tempests of fury, prejudice, or revenge, then popular tribunals, which in all reason

are not capable of so totall a distemper, as to utter such intoxicated censures, as ordinarily drop from single judgements; who rather then confesse a mistake, will, with the tyrant in Seneca, make three guilty, because they find one innocent.

Neither doth covetousnesse, the root of all evill, prosper so well, or spread so much in the hearts of senators, as in those of kings; lest their posterity should be forced to disgorge what they had devoured: Too vast estates being so formidable to this government, as they cannot be pass'd by without observation and jealousie, by such as know the cause of the reduction of the state of Florence under the house of Medici. But kings are such bottomlesse pits, that they proclaime themselves responsible to none but God, for all their rapines and injustice: By which they doe not onely adjourne all reparation to the day of doome, but leave their oppressions for lawfull inheritances to their successours; as the monopoly Queene Elizabeth granted upon glasses was improved since to very raggs and marrow-bones.

All a senate can justly be charged with by way of disadvantage, after perfectly founded, is division; which if pure from popular ambition, may possibly occasion more good then hurt, by keeping them upright; one faction remaining as a guard upon the rest; their owne safety perswading all corporations to intend the generall welfare, in which reason gives the right hand of advantage to the government by a senate, rather then that of a king; whose best designes are retarded, if not buried with his person: Whereas this jurisdiction is never sick, much lesse subject to drink or death; but reacheth, through a continual suppliment, to as immense an eternity as Providence hath afforded any humane society; not being apt to be scared out of the paths leading to their advantage; consisting of too great a number to be subject to any clandestine attempt, or abused by evill counsels, or corrupted by rewards; whereas experience teacheth, that kings may be forced through feare, or allured by flattery, to resigne their reason, and concede things not onely contrary to their peoples, but their owne interest; as appeared by that celebrated Prince Henry the Fourth of France, who was not ashamed to confess, he durst not, for feare of his owne life, but revoke the just ban he and all the parliaments of France had pronounced against the bloudy jesuits; whose expulsion the Venetians make good against all their machinations, threats of the pope, and mediation of princes. From whence I may observe, that though experience proves by this state, and the catholique cantons, &c. that the Roman profession may sute, in some measure, with all kinds of government, yet undeniable reason of state renders monarchy most acceptable to the pope, as it doth the reformation to free states, who are too wise to admit willingly a forraigne interest into the common-wealth, by a multiplicity of ecclesiasticks, independent on any other power but that of Rome; which kings, being but single persons, dare not resist for feare of the knife: it being besides a maine disadvantage, in worldly policy, to professe a religion so odious to their neighbours, that they are looked upon under no better notion then hereticks; and so no faith to be kept with them, nor marriage contracted, but by an especiall indulgence from his Holinesse, which republickes have no use of; and being already under the ill opinion of the Roman church, doe but desire a faire opportunity to free themselves from it, and make booty of the religious houses, long since looked upon by them as dens of traiters and idle persons. Therefore such as desire a through reformation, displease their ends by abetting monarchy; kings being knowne not onely to have beene the begetters and nourcers, but the onely maintainers of Antichrist, if the pope be the man. And if any, in opposition to this truth, object Queene Elizabeth (her brother Edward's youth and short raigne rendring his inclinations abortive to the benefit of the nation,) I answer, whosoever considers how resolutely the Pope denied to reverse her illegitimation, refusing to give a decent reception to her embassadours, and with what affection the parliament (out of pure zeale, hatred to the clergy, or feare of refunding the profits made of abby lands,) did offer to cover her blemishes with the

crowne, must conclude there could be no better refuge for her in prudence, then to side with such as did maintaine the church of Rome it selfe to be bastardized. And for the dangers probability might threaten to such a totall defection, all being avoided by her tyrannicall father, her councell (in whom she was the happiest ever waved the English scepter) thought a dispencing with them lesse prejudiciall to her affaires then the tedious ceremonies incident to a reconciliation with Rome. Neither was the progresse the protestants made in Germany, France, and Switserland, a small provocation; who by letters instigated her to this resolution; (the hopes of the councell of Trent not being quite lost,) because they found a generall desire in all princes to see the power of Rome moderated.

And that she was rather throwne by necessity, then fell of her owne accord, from the church of Rome, appeares by the ceremonies used at her inauguration, all purely catholique; so as though she was not unwilling to give the new profession hope, she could not be brought suddenly to put the old in despair; not indeavouring to bring in a greater reformation then she found, but suffered the bishops to besprinkle her raigne with the bloud of some, and inrich her exchequer with the livelyhoods of many more, that were so zealous as to desire a review of such errours as they presumed the base ends of Henry the Eighth had let slip: And these were then persecuted (though of most exemplary lives) whose followers God hath in our daies beene pleased to requite with the most miraculous successe that ever crowned the endeavours of an army. And for a farther confirmation, that this total separation from the pope grew rather in the minds of the people then the prince; all the endeavours they could use were not able to abrogate the ceremonies of crosse, ring, and surpleece, though confess'd by all of no more absolute necessity then what they derived from the breath of authority: But their true end was, to discover such consciences as were irreconcileable to Rome, unto which they had then, and doe still drive on a designe of returning; provided they could, by an universall conjunction of princes, bring the pope to renounce the power he pretends to have over kings in that which is meerly temporall: And if I am not foully mistaken, the too vigorous prosecution of this project was the cause of the murdering the two last Henryes of France: Therefore such as hinder the establishing a free state oppose the most probable way of suppressing superstition and discovering truth; which in time will, by the blessing of God, worke it selfe into unity.

I doe not write this out of an humour of singularity, or to cast dirt upon the memory of Queene Elizabeth, who in my opinion deserves to be celebrated above all the princes I ever heard of, but to manifest this truth, that monarchs look upon all religions with love or disdaine, as they find them sute with their worldly concernments. The like may be said of most of the princes in Germany who tooke part with Luther, to have a pretence to seize upon the rich monasteries and lands of the church. And though humane policy may inject the same thoughts into the minds of senetours, yet purity of religion is likelier to find friendship among many then one.

Neither is the small countenance the French give to those of the reformation, under a shallower policy, then to balance all partiality, which the pope may be terrified, out of a dread of his power, to shew the King of Spaine to the French king's disadvantage, being allwayes able by their assistance to make the like booty of the Gallican church, as Henry the Eighth did of the English.

Neither had the rich revenues of the Roman profession (which Christian princes have long since surveyed as too great a patrimony for a few priests,) beene untaken in, but that the catholique king is tied, not onely by a contrary but a stronger interest, to keepe up the pope from a totall suppression, because he hath nothing to shew for the possession of divers of his territories, and the dispensation of so many incestuous matches, but the power his Holinesse arrogates to make any thing lawfull towards God or man.

Yet if any desire farther satisfaction why Spaine remaines so true to the bondage of Rome, whilst other nations are in labour with divisions, it may be said, that besides the

inquisition, her naturall pride and affected gravity renders her proofe against innovation, especially in order to a profession lesse splendid then her owne, being, like the Jews, more delighted with well-drest ceremonies then naked truth: Neither have they any generall propensity to the study of controversies, or the writing of any thing besides romances, to which the Roman religion best sutes, being replenished with the high rhodomontadoes of saints and miraculous stories.

A monarchy both in church and state is most sutable to the English clergy, whose maintenance being raised out of the sweat of the labourer, can find none so ready (the pope excluded) as princes to protect them. Commonwealths making no such roome for flattery as kings, to whom those churchmen are dearest and readiest to be preferred by them, as having the faculty to discover virtues where none are, and hide vices where they most abound. To which qualities James and Charles were the indulgentest princes since the Reformation. For Queene Elizabeth, standing faire in her subjects opinions, was bold to make exchanges with them to their disadvantage. The cause the sweetnesse of her raigne is not more legible. This proves it madnesse to expect a pure reformation under kings, the Roman religion being in all policy most necessary for them, because they have his Holinesse ready at any time, as an honourable umpire, friendly to cement them together by fair means, or, in case they will not agree, to excommunicate the contumacious party. No small advantages to kings, who, participating of the same vindictive humours with other private mortalls, fall upon most destructive wars, onely to revenge personall affronts: as the last quarrell we had with Spaine rose from no more serious a bottome, then a misprision the Duke of Buckingham stumbled upon in his lust; and the same kings expedition to the Isle of Reez had as noisome a source; which are things below a senate, not apt to run a madding like unadvised princes, who are distempered upon the least bite of a passion.

Adde to what hath been said, the vast summes correspondent to the charge of a court, and wanton affections incident to kings, (James of England having throwne away upon Dunbarre, Carlisle, Sommerset, and Buckingham only, according to computation, two millions,) and you cannot but conclude a free state the thriftiest government for the people, about whom no such summes can be found, but under the hazard of a present or future question. Besides, consider the excessive expence the nation would be at to repaire the utensils of a crowne, which the charge or fate of warre hath exposed to sale or ruine.

We see it is the fortune of most private families (notwithstanding their severer education) to fall within two or three generations under a foole, or, which is worse, one so infatuated with an immoderate thirst of pleasure, as to hazard the cutting off the strongest intaile. And can people be pronounced so happy, who have no more to shew for their felicity but the crazied and uncertain life of a king, (rarely found to be indifferently good in the first, but ever intolerable in the second or third descent,) as a senate, which never dyes but growes daily more acquainted with the constitution of the nation, being taught by experience how to administer to the peoples necessities?

Whose children doe not remaine a burden and terrour to the commonwealth as those of monarchs, which makes the great Turke to strangle them like vermin, and the Persian to put out their eyes, lest they should bewitch their kingdoms into seditions; as in the annals of our English monarchs is legible in red letters, though many deep markes of blood have beene expunged by their power, or covered by the flattery of such as pen'd their stories. And if we would seriously consider it without prejudice, we might clearly foresee, that no state is able (without stocking up the ancient nobility and gentry) to beare the true, much lesse the borrowed issue of three queenes in succession so fruitfull as our last Mary, the pregnancy of whose head for mischiefe hath not yet beene so fatall to this nation, as her wombe may prove hereafter to posterity; that perhaps may be ignorant how few kings come to the crowne unspotted with the blood of their predecessours, and that nature is so farre buried in their jealousies and feares, as often-

times she cannot be heard in behalfe of her owne children; manifested in Philip the Second of Spain, who put his owne son and heire to death, a tragedy since revived and acted by the same kings players upon the person of Prince Henry in England, at the especiall command, as was thought, of &c.————, because he seemed averse from a match with the Infanta, for whose sweet sake his brother undertooke that honourable journey into Spain, by which (not to reckon the vast expence and shame it brought) the perpetuall quiet of this nation was in hazard. And till any can parallel this with a like absurdity committed by a senate, they must excuse all who thinke monarchy not the wisest or happiest government.

Neither are the progeny of kings lesse unmindfull of their filiall duty, since it is notorious, that Lewis the XIth. and Charles his son were found in the head of an army against their fathers, before discretion could securely intrust them with a sword for feare of hurting themselves; the eldest not having attained the age of twelve yeares.

What tragedies the royall issue have acted in England is well knowne; but in Scotland they have beene so frequent and dismall, that their crowne seemes rather a snare to catch unadvised fooles then a symbole of honour, proving as fatall to most have worne it as the shirt of Hercules the drab had poysoned.

Though a senate may be tempted to severity at first out of care and love to the people and themselves, the disturbers of peace being subdued or reformed, it is as contrary to their natures and discretions to delight in bloud, as for a wise physician to use phlebotomy when the distemper is over: whereas, under a monarchy, the nation runs a hazard of blouding upon every change, being ready to fall into a feaver by the contrary humours and claimes of those of the same line; who, upon the least nicety they are able to create, raise a civill and destructive warre, as betweene Lancaster and Yorke, which lasted so long as the people, out of meere poverty and wearinesse, were willing to sell themselves for slaves to the succeeding Pharoahs of the prevalent line; and having found such mischiefes to result from contrary claimes, they, to perpetuate a single title, made the justest endeavours to oppose it treason; and so entailed a perpetuall inconvenience unto posterity, that fell into the clutches of the law upon the least offer they made to free themselves from these arbitrary taske-masters, at whose devotion they have ever since eaten the bread of affliction and constraint, which they might have avoided by changing the government; but that, like Lucian, they lay under so strong a fascination as they were in their abused judgements capable of no cure; but first by recovering a conjunction between the roses, and then an union with Scotland. And though the vanity of this conceipt be made apparent by 40 years contrary experience, yet the generality cannot be wooed to assume their naturall shape of free men, but desire rather to remain asses still under the heavy pressures of a king; not considering that the old line is so exasperated, that if any of it come to succeed they cannot, in prudence or safety, but so bush up all waies leading never so little towards liberty, as we may well groane, but shall not have so much as hope to be heard or redressed hereafter; when those that stand for kings shall receive as severe a doome as the rest, out of feare they may another time be as well able and as willing to oppose as now to assist them.

After having weighed the deeds of the United Provinces and Venice, consider what despicable nations (if capable of that title) these had been under absolute princes, or what king, deduction being made for the expense of his court only, (without reckoning the concomitant vanities of plaie, revels, &c. in which our last kings spent more then they have done in bringing home victory from Spaine or Turkey,) would be able with so small revenues to pay so many garrisons, and maintain such an army as the Dutch have done for 80 years? Neither is the advantage lessened by objecting the vast sums they stand accountable for to the subjects of stranger princes, which, being intrusted without paune, is the greater honour; all mens repute in the world having been sutable to their deots. Therefore, since no prince was ever thought capable of so much credit with his neighbours, as to be intrusted with the like inestimable sums, as these

and other free states are known to be, (who are made depositaries for the fatherlesse and widowes,) it is an infallible argument of their lesse esteem of kings, never found true to their naturall subjects; which makes none willing to lend to them but out of feare or constraint, when mony is by heaps layed voluntarily at the feet of this more free government. And what is to be expected from our redemption out of monarchical thraldom, may be guest by the words of the kings own agent, who urged, as an inducement to Holland to favour his party, that if England could be free they would be formidable unto them, not only by interrupting their fishing and all other maritime advantages, but by robbing them of trafick as they had done the Venecians; and not only so, but give law to all Christendome, by reason of the commodiousnesse of their harbours and multitudes of their ships; yet our bl———— brethren of Scotland were so liquerish after the dainty shadow of being sharers with us in England, by the mediation of a king they meant to have set over us, that they let fall the substance of as great a felicity of their own, having sea-roome and greater advantages then the Hollander began with, or can yet purely call his own.

To that obvious objection, that reason did alwaies concede an advantage to the absolute jurisdiction of a single person in the field, prescribing to that end but one generall to an army, for feare of divisions upon contrary counsels and commands, may be replied, that no king had ever greater successe waited on his person, then this government hath been ordinarily presented with from her subjects; who are not only heated with as great a sense of honor, but also moderated by that of feare; being subject to question as well for victory, if attained under too hazardous or improbable an adventure, as losse: whereas princes take liberty to expose their people without controle upon all occasions and pretences, though never so triviall, disadvantagious, or unjust. Neither are generalls taken up on trust, as kings are, in successive monarchies, who have nothing more to shew for their legitimacy then the word of their mother, nor better reason and sufficiency for the execution of their regality, then that his majesties father had rendred the people miserable before him. And here I am constrained by truth to attest, that no nation was ever more blest in the conduct and successe of a generall then England is now, whose valour and judgement hath not only broke through such difficulties, for which kings were wont to triumph, but is become so familiar with Victory, as it may seem shee dares not leave him for feare of being overcome her selfe

Neither is the good use may be made of kings excluded in a free state, but continued, as in the Duke of Venice, and heretofore in the Prince of Orange, &c., who have the custody of such honours and ceremonies as are not with decency or conveniency communicable to more then one; and such a prince is not likely (nor in my poor judgement fit) to be kept from a commonwealth, provided his admittance be with that caution, as no trespas may be committed upon the peoples liberty.

Free states have been alwaies looked upon as most auspicious to men of parts; whereas, monarchs preferre a good face, the importunate recommendations of a mistres, or their own solitary affection, before all the desert attending upon parts or breeding, because, empty themselves, they fear to be sounded by those more sufficient; being as unable to resolve as unconstant in the prosecution of the better councels of others, which wise men communicate to kings with much caution, as knowing that what they advise is upon no lighter penalty then their ruine, if it be not as sutable to the favorites humours as their masters own safety, which makes them either conceal their true judgement, or comply with such as preferre their single interest before the publick. This renders the best designes of princes addle, exposing their subjects to a succession of evill events, in the midst of their most probable advantages; a punishment inflicted upon the generality of kings for their murthers, rapines, and blasphemies, it being rare for any of them to hold their principalities from a more legitimate tenure then poison or the knife, their births being so sophisticated by the surer side, that they have oftentimes no more of the bloud royall in them then the con-

sent they lent to their predecessours destruction hath clogged their consciences withall. And if the possession of the crowne alone be esteemed sufficient, in the sense of the law, to expunge the grossest spots yet found in any that wore it, may it not as well charifie a republick from any imputation can be objected to the means they ascended by? It being the custome of all supreme powers to shape their result to the patterne prudence and successe hath cut out for them, and not according to the fashion of old formalities, so little regarded by princes, as the oath was never yet sworn but they have broken, nor stipulation so strong as to hold when they saw the least advantage before them. They have therefore the lesse cause to complaine, being only whipt with their own rod, or, like Haman rather, who was the justlier executed, because it was upon the same gibbet he had set up for the people of God.

Therefore, if men will not render themselves deafe to the voyce of Providence, in no worldly thing so audible as a continued successe, they may conclude what is done is by the approbation of God himselfe, he having manifested his power as well on the high and barren hills of Scotland, as in the fat and rich vallies of England and Ireland. Neither are his blessings wanting in the deepe, where our navies are no lesse successefull then our armies on the land, though looked on with an evill eye, and cursed by the kings of the nations, whom the same God hath so weakened or employed, as they have had no power or leisure to doe us hurt.

So as he that after all this shall seem to apprehend more divinity lost in a king succeeding by conquest, &c., then may be found in a state (using as decent a procedure as can be expected in such a conjuncture, and from so many implacable humours and oppositions,) cannot but be blinded by passion, or some selfeish interest; for though government may be by divine institute, yet *this* or *that* is as indifferent as whether your cloaths be made after the Dutch or French fashion; it being sufficient, if *they* defend us from the injuries of the weather, and *this* protect us against our enemies, and prevent sin and disorder, the true occasions of all government.

I doe not find particular interests, that are usefull and safe, much worsted by this change; for if our ancient nobility consider how basely they were trampled upon by those two beggerly princes, Rupert and Maurice, who had nothing to bear the charges of their pride but the charity of those they scorned, and the gracious aspect of a unkle, who could not love them but for his own ends, what precedency or honour could they have expected, had the royall issue been dilated to the probable number in three descents it might have attained to, whereas now there is no likelyhood any more will be made; it not being sutable to republiques to give honours of that magnitude, though those few the cruelty of the catholick king left in the Netherlands still retain the same dignities and possessions the state found them in, as I doubt not but these may do here, if the implacablenesse of their spirits doe not render them unworthy of that favour, in thinking it not felicity enough to be free from oppression themselves, unlesse they be in such a condition as they may exercise with impunity a tyrannicall power upon others, as formerly they did, when, like burning glasses, they multiplied the heat of the kings oppressions.

It is a wonder to me to see how nice they are now of their honours, and what a scruple they make of submitting to this power, not to be denied superlative, when I remember how basely I have seen them or their fathers lying at the feet of the court minnion, scrambling for his durty neeces, not leaving innes, shops, and (if not belied) worse places, unsought, to find some of his femall kindred for their heires; forgetting that he is more noble who hath ventured his life for liberty, then he that hath nothing to shew for his honour but a good face, or an acquittance for so much money.

Look upon our general in his cradle, and you shall find him as good a gentleman as most of these (one of that house and name having been a principall instrument in over-

turning those hives of drones, and freeing us from the tyranny of the pope;) but consider him in his saddle, and you will think such low spirits unworthy to be his footmen. If he hath any faults, they lye neither in his valour, conduct, prudence, nor humanity, being as far from pride as basenes, and known to be as faithfull in the preservation of his friends as Providence hath made him successefull in the subversion of his enemies. I had not writ this, for fear of being accused of flattery, but that I know he is so employed in purchasing new honours, and setling this nation, that he hath not the leasure to heare what he hath already deserved

Concerning the interest of the ministry, I mean such as have no other end then the glory of God; they may be more happy under this then monarchicall government; for though sublimer titles (the Diana of more licentious times) be taken away, yet, since the kingdome of Jesus Christ is promised to be set up in the place, they ought with patience to expect, assuring themselves that God would never give so miraculous successe to men designed for the ruine of truth. Neither is it sutable with the rest of the prudence used by those who have the absolute power of determining, to take away the decent maintenance of the ministers of the gospell, or to demolish the universities; but rather hold the hands of such as, like blind Sampson, might goe about to pull them down, and ruine their own selves by their folly and indiscretion.

It is past humane prevention, that two factions, both so fruitfull in learning as the protestant and papist, should not fall into so many subdivisions, as it is impossible to keep them all in unity, under a lesse severe restraint then an inquisition (as repugnant to charity as unsutable to the spirits of a free people); or els, by enjoying so indulgent a liberty as may leave every conscience free (all civil obedience presupposed as due to the present government) Now, such as conclude from this permission that the catholicks will then in a short time master all, doe not consider how much easier oxen are kept out of a pasture than conies or hares; the papist having rendered himselfe so unsociable to all opinions but his own, as he is detested in Amsterdam, where the Jewes find as good, if not better, protection.

Therefore the United Provinces and all other free states, whose foundations were layed under the mixt occasion of maintaining religion and liberty together, are not reprovable for making use of and indulging tender consciences, though they retaine some things superfluous, or have not yet the strength to concoct into practice all things necessary; for as Rome was not built in a day, so is it as impossible to pull it down in so short a time.

Wherefore I desire men to be more charitable in their censures, since the primitive Christians were so farre independent, that they retained only so much of the truth as the tyranny of those times, and the stronger or weaker light they walked by, gave them opportunity to snatch up; some running away with a beleefe of the Holy Ghost; others without so much as ever hearing of such a thing; some with simple baptism; others with a mixture of circumcision; some with the bare knowledge of the baptisme of John, yet judged mighty in the Scriptures; some with a religious respect to daies and meats; others without it: and yet Paul is so farre from reproving them, that he attests it was all done to the Lord. Neither is it lesse manifest that they all did teach; and if the same apostle would never eate flesh rather than offend a weak brother, what charity appears in those high presbyterians that clamour for a coercive power, as Saul did before his conversion, that they might deliver these men bound. I would fain have them tell me what is meant by building with hay, straw, stubble, &c., which shall raise at least the builders to heaven, provided Christ the foundation be kept; and if so, let us take heed, least a woe doe not follow the scandalizing these men, who, without doubt, are our Saviours little ones. And since we cannot recover the whole seamles coat of Christs righteousnesse, let us not despise any, about whom we find the undeniable peeces, though spotted with the frailties of humanity.

The last interest is the peoples, which, if not already better under this present government then a kings, they may thanke themselves, who, by their own intemperance and non-compliance, occasion the major part of these heavy taxes, which the state can take no pleasure in raising, their own lands being as obnoxious to them as the meanest subjects.

Therefore, if all would willingly submit to the power God hath set over them, the tradesman might live free from being interrupted by monopolies, and the husbandman from the rapine of purvoyers, comissaries, deere, carriages, shipmony, wardships, and an innumerable number of other illegall impositions; whereas otherwise it is impossible to make a nation happy that is resolved to be miserable, and to seeke their own ruine by hating to be reformed.

FINIS.

Several Draughts of Acts[1] *heretofore prepared by Persons appointed to consider of the Inconvenience, Delay, Charge, and Irregularity in the Proceedings of the Law. Printed by an Order of Parliament of the 12th of July, 1653, for the Members of the House.*

The committee appointed of the house for bringing in the bill:

The Lord General Cromwell, Mr Carew, Lord General Fleetwood, Mr Weston, Alderman Allen, Colonel Algernoon Sidney, Mr Garland, Mr Dove, Mr Corbet, Sir Henry Hayman, Mr Dormer, Mr Bond, Sir Gilbert Pickering, Lord Commissioner Whitlocke, Lord Commissioner Lisle, Lord Chief Baron Lane, Mr Raleigh, Colonel Bennet, Mr Strickland, Colonel Jones, Sir Henry Mildmay, Colonel Fielder, Colonel Rich, Sir Arthur Haslerig, Mr Attorney Prideaux.

Committee appointed, not of the house:

Mr Matthew Hales, Mr Steel, Recorder, Mr Charles George Cocke, Mr Thomas Manly, Mr John Sadler, Mr Samuel Moyer, Mr Josiah Berness, Alderman Foulk, Mr Tobias Fryer, Sir William Roberts, Mr Arthur Bernardiston, Mr Hugh Peters, Major Parker, Mr Robert Wring, Sir Anthony Ashley Cooper, Mr Hachman, Mr William Mathod, Mr Sparrow, Mr Graves, Mr Mansel, Colonel Bland, Mr Francis River, Mr William Berry, Mr Leech, Major-General Desborow, Colonel Tomlinson, Mr William Flemming, Mr Spring.

[1] The cause of their not passing into laws at that time is thus accounted for by Ludlow, vol. I. page 430: "In the mean time the reformation of the law went on but slowly, it being the interest of the lawyers to preserve the lives, liberties, and estates of the whole nation in their own hands. So that upon the debate of registring deeds in each county, for want of which, within a certain time fixed after the sale, such sales should be void, and being so registered, that land should not be subject to any incumbrance: This word *incumbrance* was so managed by the lawyers, that it took up three months time before it could be ascertained by the committee."

It has been judged by the best informed authors, that Cromwell's principal purpose in collecting the strange and motley assembly known by the names of Praise God Barebones' Parliament, which chiefly consisted of artificers of the meanest rank both in fortune and understanding, and who had been only distinguished by the extent of their stupid fanaticism, was to strike alarm into the learned bodies of the clergy and the law. Accordingly they expressed themselves very bitterly against all profane learning, declared the separate institution of the clergy anti-christian, and proposed the total abolition of tithes as a remnant of Judaism. While thus occupied in reducing the ministry to what they and Ludlow term an Evangelical Constitution, they threatened the lawyers with an utter abrogation of their profession. The court of Chancery they utterly abolished, and were proceeding to other innovations equally new and alarming to the lawyers, when Cromwell, whose intention it had probably been, only to let that learned body see how much their profession and living lay at his mercy, was pleased to dissolve the so-called parliament by the same summary authority which had assembled them. In the mean while the measures proposed by those rude and violent legislators contained, among a quantity of ill-concocted and worse considered propositions, many improvements of real importance; some of which are noticed by the editor of the original edition of this collection, in the following introductory passage:

"Though several of the following matters have been since enacted by parliament, and are become part of the laws of the land, yet it may be useful, on several accounts, to see the form in which they were drawn up by the first projectors, the reformers who had subverted the monarchy and the church. Not that we mean to recommend the religion of these men, or their politics, so far as the same relate to the general frame and constitution of government, by shewing that they struck out some useful hints for the amendment of several particulars which were amiss: on the contrary, we should think it marvellous indeed, if a junto of new men, most of them of even obscure origin, having availed themselves of the misconduct in the administration of an ancient government, and, under pretence of reformation, having wrought the populace up to a phrenzy; I say, if such men, who, not being satiated with the patrimonies of the crown and the church, and the sequestration of the estates of all royalists, that is, of the greatest part of the nobility and gentry, had such keen appetites for the wealth of the people, as to make the little finger of their government heavier than the loins of the prerogative; if such men should endeavour to redeem, retrieve, or compound for reputation with the publick, especially in instances which were to cost them little or nothing. To do justice to them, therefore, in this respect, the reader will be able to observe, that the administration and the distribution of the estates of intestates, the more easy recovery of rents, the prevention of fraudulent conveyances, and of profane cursing, swearing, and sabbath-breaking, the registry of conveyances and wills are here designed, and have since been regulated by the legislature in some measure, according to these proposals. Moreover, in the eighty-nine sections touching the common law courts and county judicature, there are many excellent materials, a considerable part of which have been since introduced into our statute-book; as that against collateral warranties, that creditors may compel debtors to discover their effects, (this only in the bankrupt and insolvent acts,) that corn in rick may be distrained for rent, that notice be given of distresses made for rent, that they may be sold in a convenient time, (which, by the way, was part of the statute-law of Ireland near two hundred earlier,) and against general occupancy of estates, *par autæ vie*. Some things here, which have not been since enacted, seem also to deserve consideration, of which we shall only mention the abolition of common recoveries, the general registry of conveyances and wills of land, and the more easy recovery of small debts. Some things here are not practicable, being, as we apprehend, set down at random by men who understood nothing of the matter; thus, in a table of fees for a serjeant or barrister at law, for a motion, trial, or attending a reference, or giving his opinion upon a case stated in writing, ten shillings; for an argument upon a special verdict or demurrer, one pound. The law must have been strangely altered in its course since those fees were calculated, if there was any reasonable proportion in the fees, or good sense in the proposal. We now sometimes see trials which last a day and a night; we see twenty close-written sheets of brief for a motion; we see cases for opinion, which may reasonably cost the greatest man in the profession a day to read, duly consider, and answer, and each of these, by this project, for ten shillings. But it cannot be our business to go through particulars; let it suffice to say, that the Long Parliament, in its beginnings, demolished ship-money, the council of York, the court of Star-

chamber, and of wards and liveries, and delivered the nobility and gentry of the land from the thraldom of knight-service. During the full vigour of the usurpation, the navigation act was invented and carried into execution, to which our present maritime figure is chiefly owing; and we have Lord Clarendon's opinion, that the great usurper's plan for constituting a British house of commons, was an alteration to be wished for in better times. Let us not therefore ask, Can any good thing come out of Galilee? but rather learn, *Fas est et ab Hoste Doceri.*

A Draught of an Act for taking away Fines upon Bills, Declarations, and original Writs.

Forasmuch as fines taken upon bills, declarations, and original writs, are an inconvenience in the law, and a great charge to the people, be it enacted by this present parliament, and by the authority of the same, That from and after no fines shall be taken upon bills, declarations, or original writs; but such writs shall be from thenceforth issued, and such bills and declarations admitted and filed, without taking off any fine.

The Draught of an Act touching Marriages and the Registring thereof, and also touching Births and Burials.

Be it enacted by the authority of this present parliament, That whatsoever person or persons of England and Wales, who after the day of ,which shall be in the year , shall agree to be joined in marriage; every such person or persons so intending to be married, shall first (three weeks before such intended marriage be consummated,) deliver, or cause to be delivered, unto the register of the respective parishes where each of the parties to be married live, (hereafter in this act appointed,) the names, sir-names, additions, and places of abode of the parties so to be married, and of their parents or guardians; which said register shall forthwith, upon such notice, fix the said names, fairly and legibly written, upon the door of the publick meeting-place, commonly called the parish church or chappel, there to remain by the space of three weeks then next following; which time being expired, the said register, (hereafter by this act appointed) shall, upon request of the parties concerned, make a true certificate of the due performance thereof; without which certificate the persons herein after authorized, shall not proceed to consummate any marriage. And if any exception shall be made against the said intended marriage, before the consummation thereof, the said register shall also insert the same, and the matter of the said exception, with the name of the person that makes the same, and the place of his or her abode in the said certificate of publication.

And be it further enacted by the authority aforesaid, That every marriage after the said day of , which shall be in the year aforesaid, shall be consummated before some justice of peace within and of the same county, where publication shall be made as aforesaid; which said justice of the peace may and shall, by vertue of this act, proceed to the consummation of every such marriage, according to the true intention of this present act, unless there shall be reasonable cause to the contrary; and the said justice of the peace is hereby authorized (before he proceed to consummate the said intended marriage) to examine any witness or witnesses upon oath or otherwise, as he shall see cause, concerning the truth of the certificate of publication, and due performance thereof as aforesaid, and also of any exception that shall be made or arise; which being carefully done and examined, the said justice of peace may

and shall further proceed to perfect and consummate the said intended marriage, in manner as followeth:

The man to be married shall take the woman to be married by the hand, and shall distinctly and plainly pronounce these words:

"I A. B. do here in the presence of God, take thee C. D. to my wedded wife; and do also in the presence of God, and before these witnesses, promise to be unto thee a loving and faithful husband."

And then the woman taking the man by the hand, shall plainly and distinctly speak these words:

"I C. D. do here in the presence of God, take thee A. B. to my wedded husband; and do also in the presence of God, and before these witnesses, promise to be unto thee a loving, faithful, and obedient wife."

And it is further enacted by the authority aforesaid, That the man and woman having expressed their assent unto marriage by the words aforesaid, before some justice of the peace, in the presence of two or more credible witnesses, the said justice of the peace may and shall declare the said man and woman to be from thenceforth to be husband and wife. And from and after such assent so expressed, and such declaration by some justice of the peace so made, the same (as to the form of marriage) shall be good and effectuall, according to the laws of England; and no other marriage after the said day of , which shall be in the year aforesaid, shall be held or accompted a legal marriage within England and Wales, according to the laws of England.

And to the end that a true and just accompt may be from time to time, and always hereafter had, as well of the aforementioned publication, as of all such marriages hereafter to be made, and also of the births of children, and deaths of all sorts of persons within the several parishes and places in England and Wales, it is hereby further ordained and enacted, That a book of good vellum or parchment shall be provided by every parish, for the registring of all such marriages, and of all births of children, and deaths of all sorts of people within every parish; for the safe keeping of which said book, the inhabitants and housholders of every parish, chargeable to the relief of the poor, or the greater part of them present, shall upon the said day of , which shall be in the year aforesaid, make choice of some able and honest person (such as shall be sworn and approved of by one of the justices of peace of that parish or division,) to have the keeping of the said book, who shall therein fairly enter in writing all such publications, marriages, births of children, and deaths of all sorts of persons, and the names of every of them, and the day of the month, and the year of publications, marriages, births, and deaths, and the parents names; and the register in that parish where the marriage shall be consummated shall attend the said justice of the peace to subscribe the said entry thereof; which said person so to be elected shall be called the Parish-Register, and shall continue three years in the said place of register (if he shall so long live) and longer, until some other be chosen, unless the parish should think fit to remove him sooner. And he may or shall take for every such publication or certificate thereof, twelve-pence; for the entry of every marriage, twelve-pence; for every birth of child, four-pence; and for every death, four-pence; except for publication, marriages, births, or burials of poor people who live upon alms, of whom nothing is to be taken.

And be it further ordained and enacted by the authority aforesaid, That no person or persons under the age of one and twenty years shall from and after the said day of , which shall be in the year aforesaid, presume to marry or take to wife or husband, any infant under the age of one and twenty years (without the consent of his or her father, if he be then living, or his or her guardian if the father be dead.) And if any such person shall marry or take to wife any such infant under the age of one and twenty years, without consent of her father if then living, or her guardian if

the father be dead, such person so marrying shall forfeit (during the joynt-lives of such married persons) one full third part of such lands, tenements, and hereditaments, as he hath or might in law or equity take or dispose of at the time of such marriage by reason thereof; and one full fourth part of all such goods and personal estate as might or should accrue or come unto him at the time of such marriage by reason thereof, and shall be utterly disabled and excluded to have any estate of free-hold in any the lands, tenements, and hereditaments of such wife, as tenant by the courtesy of England. And if any woman shall take to husband any person under the age of one and twenty years, without the consent of his father, if he be living, or his guardian if the father be dead, she shall be utterly disabled and excluded to claim or have any dower, free-bench, or other customary estate of such husband, whereunto she might be otherwise intituled by such inter-marriage, or death of such her husband; and likewise shall not have the advantage of any part of his personal estate, without his express gift or bequest.

And it is hereby further declared and enacted by the authority aforesaid, That from and after the day of , which shall be in the year aforesaid, the age for a man-child to consent unto marriage, shall be seventeen years, and the age of a woman-child fifteen years, and not before.

And it is further enacted by the authority aforesaid, That the hearing and determining all matters of controversies touching marriages, and the lawfulness and unlawfulness thereof, and exceptions against marriages, divorces, allowance of allimony, distribution of fines, and forfeitures for marriages without the consent of parents and guardians, shall be in the power, and referred to the determination of such persons to hear and determine the same, as the parliament hereafter shall appoint.

And be it further enacted by the authority aforesaid, That the mayors, recorders, stewards, aldermen, sheriffs, and town-clerks of any cities in England and Wales for the time being, and every of them, shall have the like power touching marriages within the said cities and liberties thereof as is hereby given to the justices of the peace.

And lastly be it enacted by the authority aforesaid, That all and every persons abovementioned in this act, may and shall in their several places, by vertue hereof, put in execution all and every powers and authorities respectively to them limited by this act, any law, statute, custom or usage formerly to the contrary notwithstanding.

The Draught of an Act against customary Oaths.

Be it enacted by authority of this present parliament, That no person shall be hereafter required or compelled to do homage, or to take an oath to do fealty, or shall take an oath upon matriculation in either of the universities, or upon taking any degree or admission, or entrance into, or freedom of any corporation, society or company whatsoever.

Provided, That this act shall not extend unto the engagement, nor to take away any oath particularly appointed to be taken by any officer or officers concerning the execution of such office.

Provided also, and it is hereby enacted, That where any tenure now is by homage and fealty, or either of them, the tenant that so holdeth shall in lieu thereof (as he was formerly to do homage and fealty, or either of them) be hereafter only liable to make acknowledgment (if he be lawfully required) that he holdeth his lands of the person of whom he holdeth them.

The Draught of an Act for the taking away common Recoveries, and the unnecessary Charge of Fines, and to pass and charge Lands entailed as Lands in Fee-simple.

Be it enacted by the authority of this present parliament, That from and after the day of , which shall be in the year , it shall be lawfull to and for any person or persons, being of the full age of one and twenty years, to grant, alien, bargain, sell, lease, or with any rent, statute, recognizance, or judgment, to charge, or by his last will in writing, devise, or charge any manors, lands, tenements, or hereditaments, whereof such person or persons shall be seized of any estate in tail, in possession, reversion, or remainder; or by his release to bar or discharge any right to him or them belonging unto the manors, lands, tenements, or hereditaments so entailed: And that such grant, alienation, bargain, sale, lease, charge, devise, and release shall be a good and effectual bar in law against such person and persons, and their heirs and assigns claiming the said lands, tenements, and hereditaments so entailed only by force of such entails; and against all and every other person or persons and their heirs, having, or that may or shall have any such estate, right, title, interest, remainder, reversion or possibility, which the said tenant in tail, at the same time of such alienation, grant, bargain, sale, lease, charge, will, or lease, in right or in possession, or could bar or destroy, by any fine with proclamation, or by any recovery or recoveries had against him as a tenant, or as a vouchee in any common recovery of the said manors, lands, tenements, or hereditaments. And that all such gifts, grants, bargains, sales, leases, wills, charges, and releases, shall be as good and effectual against the issues in tail, and those in such reversion and remainder expectant thereupon, and their heirs and issues, as if such person or persons so demising, aliening, granting, bargaining, selling, charging, devising, or releasing, had been seized of an estate in fee-simple. And from the day of all common recoveries are to be forborn and no more used: But all agreements for levying fines, and suffering common recoveries, shall be construed to oblige to the making other assurance of the same force in law.

And be it further enacted, That any person seized of a copy-hold in tail, or in nature of an estate-tail, may (by a bare surrender of the same according to the custom of the manor) bar the issue and heir of such copy-holder, and all remainders and reversions expectant thereupon, as effectually as if the said copy-holder had duly suffered any common recovery in the court of the said manor.

And be it further enacted, That all manors, lands, tenements, and hereditaments from and after the day of , descending to any heir or issue of such tenant in tail, shall be charged with the debt, covenant, charge, or warranty of the ancestor from whom the same descend, as if the same had descended in fee-simple to such heir or issue: And in case such tenement in tail, or his heir in tail, from and after time aforesaid, die without issue, and the said manors, lands, tenements, or hereditaments so entailed shall revert, remain, or come to any other person or persons that such tenant in tail could or might have barred at the time of such bond, covenant, charge, or warranty made, the same shall be charged with such debt, covenant, charge, or warranty, as if the same had descended to him or them in fee-simple from the said tenant in tail; and the like action to be brought and maintained against him or them, as against an heir having lands by descent in fee-simple, and he and they to be admitted to make like defence as an heir in fee-simple, and like judgment and execution to be awarded.

Provided also, That nothing in this act shall prejudice the dower, joynture, or joynt estate of any wife of such tenant in tail, nor enable any tenant in tail, after possibility of issue extinct, or any jointuress to bar or charge her issue, or cut off

or charge any remainder or reversion, which he or she could not lawfully do before this act.

And be it further enacted, That where any married woman shall join with her husband in any writing under hand and seal for leasing, granting, or conveying any manors, lands, tenements, or hereditaments, or granting any rent, and shall acknowledge the same before any justice of the peace, or person authorized, or hereafter to be authorized, to take the acknowledgment of deeds, the said justice of peace or other person so authorized to take the acknowledgment of deeds, shall and is hereby authorized to examine such woman privately and apart from her husband, whether such writing, and the acknowledgment of the same is made and subscribed by her freely, without enforcement of her husband; and whether she knoweth the contents thereof, and consents thereunto: Which if she acknowledge, the said justice of peace or other person so examining her, shall subscribe such examination under his hand upon such writing, and the time of such examination and acknowledgment, for which sixpence shall be taken by the justice of peace's clerk and no more; which shall be a sufficient warrant for enrolment thereof in any court or record, or other public registring of deeds; And being enrolled or registred accordingly, shall, from the time of such enrolment, be of equal force and validity against such woman only and her heirs, as if she had been a woman unmarried.

And be it further enacted, That if the heir of lands, tenements, or hereditaments descended to him in fee-simple, liable to the payment of the debts of his ancestor, or any lands, tenements, or hereditaments make liable to payment of the ancestors debts by this act, shall be sold away before action brought, that the value of such lands, tenements, or hereditaments sold, shall be assets in the hands of such heir or person selling the same, and liable to the satisfaction of such ancestors debts, in like manner as goods would be in the hands of an executor.

And be it lastly enacted, That an heir now living, who had lands in fee-simple descended to him from his ancestors, and hath sold the same, the value of the lands sold and converted to his own use shall be liable for the payment of the debts of such ancestor, as the lands themselves should have been before the sale thereof.

The Draught of an Act for ascertaining of Arbitrary Fines upon Descent and Alienation of Copy-holds of Inheritance.

For the prevention of controversies between lords and copy-hold tenants of inheritance, where fines of such copy-holds of inheritance are arbitrable upon every descent and alienation, be it enacted by this present parliament, and by the authority of the same, That where such fines arbitrary are payable by copy-holders of inheritance upon every descent and alienation; in such case from and after no lord of any such copy-holders of inheritance upon a single admittance, either in case of alienation or descent, shall take for his fine above one full years rent of the copy-hold, according to the true yearly value thereof. And the same is hereby declared to be a reasonable fine in such case.

The Draught of an Act for the more speedy Recovery of Rents.

Be it enacted by the authority of this present parliament, That upon a grant of a rent or reversion, with a rent incident thereunto, the grantee (after notice given in writing under the hand of the grantor of the grant to the tenant or occupier of the land or any

part thereof,) may distrain or bring an action for such rent, and have the like advantage of conditions, penalties, and covenants, as fully as if the tenant had attained to such grant at the time of such notice; and that after an action of debt shall be maintainable for rent reserve upon a lease for life or lives, or for a rent-seck or rent-service against the tenant or tenants that ought to have paid the same.

And be it further enacted by the authority aforesaid, That a rent-charge or rent-seck shall not hereafter be extinguished or suspended by any lawful purchase of part of the land charged therewith, but be appointed as in case of a rent-service.

The Draught of an Act for the better Regulating of Pleaders and their Fees.

Be it enacted by the authority of this present parliament, That from and after no person who now is, or hereafter shall be, a member of parliament, shall (during the sitting of the parliament, and whilst he is a member thereof,) plead or manage any cause in any court of justice, except the counsel for the commonwealth, on the behalf of the commonwealth: and that no person from and after the said day of shall receive or take in any cause wherein he shall be retained of counsel, more than the sum of five pounds, directly or indirectly, nor any other thing valuable in any such cause, during the dependance thereof in any one court. Yet, nevertheless, such person shall do his duty, by giving his advice and assistance, untill such cause shall be ended and determined.

The Draught of an Act for the more speedy and easy Recovery of Debts and Damages not exceeding the Sum of Four Pounds.

Be it ordained and enacted by the authority of this present parliament, That the justices of the peace in every county in England and Wales, or the greater number of them present, at the first general sessions after the 25th day of March, shall yearly within every such division of the said county as they shall think fit, (out of ten sufficient, honest, and understanding persons, inhabitants in such respective divisions, to be nominated out of the jury-book, and presented to the said justices by the grand jury,) appoint and order five of the said ten persons to be commissioners for the hearing and determining all differences between party and party, (living in the same county,) arising upon any matter of debt, promise upon a good and lawful consideration, trespass, contracts, or detained of goods to the value of four pounds and under; every of which said five persons so appointed, shall within one week after notice (to be given by the clerk of the peace) repair to some justice of the peace of that division, and be sworn before him honestly and impartially to execute the powers and trusts in him reposed by this act, according to his best understanding and conscience, and shall afterwards agree of some certain public place and day to sit weekly or otherwise, for receiving complaints, as they shall think fit and most convenient for the ease of the people, and effectual execution of this act.

And the said five persons, or any three of them, (being of the division where the party complained of inhabiteth, or was last resident,) shall upon any complaint to them made, have power by warrant under their hands (briefly expressing the substance of such complaint,) to summon the party or parties complained of, to appear before them at a certain day and place to answer such complaint; which summons shall be served upon the party, or left at his dwelling-house or usual place of abode. And upon appearance by him or themselves, or some other person on his or their behalf, or in case of a default upon a second summons proved upon oath, shall and may proceed to hear and de-

termine the said complaint; and thereupon (three of them at least concurring) to set down their order, subscribed under their hands, concerning such debt, goods detained, or costs or damage to either party according to justice; and in order to such hearing, shall and may send for witnesses and examine them, or the parties themselves, upon oath, as they shall see cause.

Provided, That the costs to the plaintiff shall not be accounted any part of the four pounds aforesaid, nor shall exceed ten shillings in any one case to the plaintiff; and that the costs given to the defendant shall not in any case exceed forty shillings.

And if any person or persons shall refuse to pay any such debt or sum of money adjudged and ordered to be paid as aforesaid, or shall not within five days after notice of such order (proved upon oath) perform the same; in every such case, the person or persons to whom any such debt, goods, or sum of money shall be so adjudged, may and shall, by warrant from the commissioners who have so adjudged the same, (which warrant shall be directed to the constable of the parish, being within the same county where such goods to be distrained are,) distrain and take the goods of the said parties so refusing, or so much thereof, as will satisfy the sum so adjudged, and sell the same, retaining so much of the money raised by sale thereof as may satisfy the said judgement, and returning the overplus of the said goods to the owner.

And if no sufficient distress can be found, then the said commissioners, or any three or more of them, shall have power to appoint the said debtor forthwith to such daily labour in the service of the complainant, as in their discretion shall be thought meet, the said debtor there to abide in the said labour and work until he shall have earned or deserved so much as may be a full satisfaction of the sum so adjudged, to be computed according to the usual wages allowed of in that county; one half of which wages shall go to the benefit of the said complainant, the other to the maintenance of the said debtor and his family.

And if the said debtor shall wilfully neglect or desert the said work, before full satisfaction made in obedience to the said order, then upon complaint unto two justices of the peace of that division, and upon proof of such default upon oath, (which the said justices are hereby authorized to administer,) it shall be lawful for them to commit every such obstinate and idle person to the work-house, there to remain at work by the space of one month next following, for the benefit and purposes aforesaid, and to return to the work of the complainant until such satisfaction be made as aforesaid.

Provided, The said commissioners proceed not in any matter wherein a title of land is really in question between any parties, the same being declared to them upon oath; nor upon any complaint or information upon any penal law; nor upon any action for conspiracy; nor for speaking of slanderous words; nor upon any difference wherein any of the said commissioners shall be concerned in his lands or goods; nor upon any entire debt, contract, or damage, above four pounds by dividing the same; nor against any executor or administrator for any debt, damages, or legacy, if the said executor or administrator shall alledge upon oath, that he hath not assets of the testator at the time of such complaint, but the same shall be allowed as a sufficient cause to discharge such executor or administrator of any such proceedings before the said commissioners.

And it is hereby further enacted, That the commissioners of the court of requests held in the Guild-hall, in the city of London, (according to one act of parliament made in the third year of King James, intituled, "An Act for the Recovery of small Debts, and for the relieving of Poor Debtors in London,") or any three or more of them, may and shall exercise all and every authorities and powers as to such sums, and in such manner as in this present act is limited, and not otherwise.

And be it also enacted, That all and every the commissioners in this act mentioned, who shall upon such notice as aforesaid, given or left at his or their dwelling-houses, wilfully refuse or neglect to repair to some justice of the peace to take the oath before-

mentioned, the person and persons so wilfully refusing or neglecting, shall for every week after such notice and continuance of such neglect, forfeit the sum of twenty shillings, to be levied by distress and sale of his goods, by warrant from two justices of the peace inhabiting near the place where the said party so refusing liveth: the moiety of which forfeiture shall be given to the party who informeth of such neglect, and the other moiety shall be paid to the public treasury of the county, to be disposed of for the use of the county; and the said justices shall hereby have power to send for and convict the said offender upon his own confession, or upon other testimony, by the oath of one or more witnesses.

And be it further enacted, That no attorney, solicitor, or other person, for a fee, shall be admitted to plead for or against the complainant or defendant before the said commissioners.

And lastly be it enacted, That if any person or persons inhabiting in any county after the . day of , which shall be in the year aforesaid, shall commence or prosecute any suit which may or ought to be prosecuted before the commissioners in this act mentioned in any other court or jurisdiction, the debt and damages to be recovered not exceeding four pounds: every such person or persons (except the said commissioners, and except executors and administrators, suing as executors and administrators, who may sue elsewhere,) shall lose his and their costs of such suit; and shall likewise pay unto the party so unduly prosecuted, so much costs as he can prove upon oath to have justly expended in defence of the said suit, which shall and may be heard and determined by any three of the commissioners to be appointed by this act as aforesaid.

The Draught of an Act for the further Declaration and Prevention of fraudulent Contracts and Conveyances.

Be it enacted by the authority of this present parliament, That wheresoever any person seized of an estate in fee-simple or fee-tail, hath made or shall make a voluntary settlement of all or any part of his estate upon his wife, child, or children, or any other person or persons, and that the same estate now rests, or hereafter shall rest in such wife, child, or children, or in trust for them, all debts contracted before such voluntary settlement, by bond, mortgage or otherwise, shall (to the value of such debts and contracts) be satisfied by sale of such lands so settled.

And in case that any person voluntarily maketh his wife, child, or children, joint-purchasers with him, or doth voluntarily purchase any lands in the name of wife, child, or children, such estate shall be liable to the debts of such purchaser, as if the whole estate had been in him; and in case of his death, as if the same had descended to his heir.

And be it further enacted and declared, That where any pesron indebted taketh bond or other security to himself and his wife jointly, or to himself, child, or children jointly, or to his child or children, or purchaseth goods jointly with wife, child, or children, the same shall be accepted and taken to be the estate of the person so indebted, and shall be liable to the satisfaction of his debts.

The Draught of an Act against the Sale of Offices.

Be it enacted by the authority of this present parliament, That no office for life, or during good behaviour, or at will, shall be hereafter granted to an infant, or to any person unable to execute the same, or in reversion, or shall be directly or indirectly sold,

or bought, or contracted for, or any thing be given or promised for any such office; and that the parties buying and selling, giving or promising, or to whom any thing is given for any such office, or any person that shall accept any promise for any such office, and thereupon grant the same, every person so offending shall forfeit double the sum so given and received, promised, and accepted of as aforesaid; and the person coming into any such office contrary to this present act, shall be disabled to hold or exercise the said office; and he and the persons selling or contracting for sale of any office, shall be disabled to bear any office of profit in this commonwealth. And any person or persons suspected for buying, selling, contracting, or promising any thing for any such office hereafter, may or shall be examined upon his and their oaths touching the discovery of the same; and one moiety of all the sums forfeited by this present act shall be paid to the use of the commonwealth, the other half to the informer.

The Draught of an Act for the Recovery of Debts owing by Corporations.

Be it enacted by the authority of this present parliament, That an action of accompt, and other actions, shall be maintainable against a corporation, in like manner as against a private person: And the same process shall issue to enforce an appearance and answer, as against a private person, and shall be executed upon the chief of such corporation; and the same judgment shall be had against a corporation as against a private person: And upon any judgment against any corporation, and execution awarded for levying debt or damages, all the lands and tenements, goods and chattels of such corporation, or so much thereof as will satisfy the said execution, shall and may be sold: And where any corporation is or shall be more indebted than the lands and tenements, goods and chattels of such corporation will satisfy, then the chief of such corporation (calling to him or them such of the said corporation as usually join in making by-laws, assessments, or rates, for the particular use of such corporation) may and shall make a rate and tax upon all freemen of such corporation, to raise sufficient to supply the defect of the value of such lands and goods, for the payment of the debts of such corporation; and upon default of payment of such rate or tax, to levy the same by distress and sale of the defaulters goods, found within the said corporation and the liberties thereof, rendering the overplus to the owner; and in case of any injustice or inequality in any such rate or tax, any party grieved may appeal to the judge or judges of the court, where any such action shall be brought against any such corporation, or to the justices of the peace of that city or county, at their general sessions, within which the said corporation shall be; and the said judge or judges, or justices of the peace respectively, shall hear and determine the same; and the determination of such judge or judges, or justices of the peace, persons by them appointed respectively upon such appeal, shall be final.

And in case the debt or damage to be recovered against a corporation shall not be satisfied within six months next after execution first awarded against such corporation, that then the execution may and shall be levied upon the goods and estate of any one or more persons of the said corporation, who ought to have made the said rate or tax as if it were his or their own debt; and he or they upon whose goods or estate the said execution shall be so levied, may, by virtue of the said execution against the said corporation, levy whatsoever he shall be so enforced to pay as aforesaid, upon the goods and estate of such persons as refused, or made default in the payment of the said rate or tax.

Provided always, and it is hereby declared, That lands or tenements, goods or chattels, given to any corporation to any pious or charitable use, or which, upon the twenty-fifth day of March now last past, were and yet are continued for any publick uses,

are not to be accounted the lands or tenements, goods or chattels, of such corporation, liable to payment of their debts within the intention of this act.

The Draught of an Act against Challenges, Duels, and all Provocations thereunto.

Be it enacted by the authority of this present parliament, That all duels or combats in writs of right and appeal shall be from henceforth utterly taken away, and for ever abolished.

And it is further enacted, That if any person shall, from and after , by message, word, writing, or any other way, either challenge, or cause to be challenged, any other to fight any combat or duel, or shall accept any such challenge, every such person who shall make, send, or accept any such challenge, and every person who shall knowingly carry the same, shall have his right hand publickly cut off without any pardon, and shall be bound to good behaviour during life; and if any such person have any title or addition of honour, he shall from thenceforth forfeit the same for ever.

And it is hereby declared, That if any person so challenged as aforesaid do not with all convenient speed discover the same to some justice of the peace, such concealment shall be accounted an acceptance of a challenge within the intention of this act.

Provided always, That if any person accused for challenging, or sending, or carrying any challenge, will, upon his oath before a magistrate, deny the challenging, or sending or carrying any such challenge, that then the oath of the party challenged shall not in such case be sufficient evidence of itself to a jury to convict such person challenging, or sending or carrying any such challenge.

And be it further enacted, That every person who shall, from and after the day aforesaid, actually fight any duel upon any preceding challenge or appointment (although death ensue not thereupon,) and every person who shall, as second or otherways, knowingly accompany or assist any such person, they and every of them shall lose their right hand, and shall forfeit all their goods and chattels, lands and tenements, and shall be for ever banished out of this nation; and if they or any of them return, then to suffer the pains of death.

And if any person shall be slain in any such duel, such person, and the person killing, together with the seconds and assistants, shall be held and adjudged murtherers, and shall incur pains of death, and forfeitures of lands and tenements, goods and chattels, as murtherers, without benefit of pardon or reprieve, and shall be hanged in chains: And the like law and punishment shall be for parties challenging or accepting any challenge in England, and thereupon fighting in any other place, as if the fact had been done within the commonwealth of England. And the trials and judgment upon this act may be had either at the gaol delivery, or at the general sessions.

And, to prevent occasions of challenges and quarrels, be it further enacted, That any person or persons hereafter using any disgraceful, provoking words or gestures, shall be liable to an indictment at the gaol delivery, or general sessions of the peace; and if such person or persons shall be found guilty, the judge or justices of the peace shall cause him or them to be bound to his or their good behaviour, and shall likewise impose a fine upon him or them for such offence, to be levied to the use of the commonwealth.

And also to make reparation to the party wronged (so it be not in money,) as to the said judge or justices shall seem meet, upon consideration both of the quality of the persons injured, and the offence committed: And if any person shall refuse to give obedience to the sentence of the judge or justices herein, such person shall be com-

mitted to the house of correction, there to remain at work until he shall perform the same.

And it is lastly enacted, That no *certiorari* shall be hereafter allowed to remove any such indictment as aforesaid.

The Draught of an Act to make Debts assignable.

Be it enacted, by the authority of this present parliament, That from and after , it shall be lawful for any person residing within the commonwealth of England (not being an alien) to assign and make over to any person residing in the same commonwealth, any debt or debts due to such person by virtue of any matter of record, or by speciality of any kind, or by bill of exchange, so always as such assignment be made in writing, under the hand of the party assigning, and notice thereof given to the debtor; and from and after such notice, the assignee shall and may maintain an action in his own name upon such assignation.

Provided always, That an assignment of any debt by any person, after judgment against him for any sum of money, shall not be good so long as the said judgment shall be unsatisfied; and that nothing in this act contained shall bar or hinder creditors from such relief as they might have had upon any commission of bankrupt, if this act had not been made.

The Draught of an Act to prevent Solicitation of Judges, Bribery, Extortion, Charge of Motions, and for Restriction of Pleaders.

Be it enacted by authority of this present parliament, That no person shall make any application to any judge of any court of judicature in any cause, either by word of mouth, message, letter, or otherwise (except the parties, their council, attorney, clerk, or known solicitor in the cause; and that also in the due course of proceedings:) And that it shall be part of every judge's oath, That if any application be made to him contrary to this act, he shall make a publick discovery in open court, at the next sitting of the court, both of the persons and particular things, which he shall carefully observe.

That any person, after publishing this act, offering, giving, or taking a bribe, or any officer taking more than his just fee upon any account whatever, in the way of his office (which is hereby declared extortion,) if he shall be accused for the same, shall and may be examined upon oath for the discovery thereof.

And be it further enacted, That the register or clerk of the rules in every court of justice shall keep a book for entry of all motions, whereto suiters, their council, attorneys, clerks, or solicitors, may resort, and write down the substance of their motions and desires, subscribing their names, and in the margin the day of the month of such entry briefly, which entries shall be numbered by the register or clerk of the rules with figures, according to the true time of the entry, and made known to the court. And the court shall appoint certain known times for hearing, and shall (without any motion from council) hear the same according to the order of their entry, and not otherwise. And if the register or clerk neglect their duty herein, they shall for every such offence forfeit 5*l.* and the judge 20*l.*, one moiety of both forfeitures to the commonwealth, and the other to the party whose motion stood then first in order for hearing: And in case the court shall find such motions causeless, they shall impose a fine of 10*s.* to the commonwealth, and give the party unjustly troubled thereby his full costs

And be it further enacted, That every serjeant and counsellor at law shall (before the

beginning of every term) enter his name with the said register or clerk in that court where he intends to plead for the term following, and shall not plead or attend any cause between party and party in any other place, during the sitting of that court: And that no person shall retain or have above three of counsel in any court, in any one case at one time, and shall forfeit 20*l.* to the adverse party for every counsellor which he shall have above that number: And if any such pleader shall be retained of counsel in any cause, in the court where he hath once entered his name, and shall give over pleading in the same court before the cause wherein he is so retained be heard, he shall repay all the fees he hath taken from his client in the cause, unless such client himself delayeth the prosecution of the cause in bringing the same to hearing.

Provided always, That any constant counsel in fee for a corporation may attend and plead in any court for the said corporation, so as no client's cause, for whom he is retained in the court where he entered his name as aforesaid suffer prejudice thereby.

The Draught of an Act for the better putting in Execution the Laws against Drunkenness, profane Cursing and Swearing, Sabbath-breaking, and other Offences.

Be it enacted by the authority of this present parliament, That it may and shall be lawful to and for any person, as well officer and minister of justice as others, by warrant or without, upon their hearing any person profanely swear, curse, or blaspheme, or upon their seeing any person drunk, or profaning the Lords day contrary to law, forthwith to apprehend, or cause to be apprehended, every such offender; and thereupon to bring every such offender to some constable or justice of peace, to be dealt withal according to law: And that it shall and may be lawful for every such person causing such offenders to be apprehended to call any other to his assistance.

That the forfeiture hereafter to be incurred by any person offending in drunkenness or Sabbath-breaking shall be rateably paid according to the degree and quality of the person offending, in such manner as is limited and appointed for persons profanely cursing and swearing, by an act of this present parliament: And every person that shall profanely swear or curse, more than once at one time, shall pay the forfeitures for every such oath or cursing, though there be but one conviction.

That where any person shall be hereafter convicted according to law, for drunkenness, prophane cursing, swearing, blaspheming, or for Sabbath breaking, it shall be in the power of the judge or justices before whom such conviction shall be, forthwith to demand the penalties by law inflicted upon such offenders; and for non-payment thereof (or not giving such good security as the judge or justice shall approve of, to pay the same within twenty-four hours,) it shall be lawful for every such judge or justice to cause the offender, so refusing to pay, to be set in the stocks for the space of twelve hours, or to be set to work at the work-house for such time as the said judge or justice shall think fit, not exceeding twelve days.

That if any person shall inform any judge or justice of any persons that shall commit any of the offences of drunkenness, prophane swearing and cursing, or Sabbath-breaking aforesaid, who shall thereupon be duly convicted, it shall be in the power of such judge or justice to allow out of the penalties forfeited by law for such offences, some part thereof for a reward to the person that shall inform thereof, provided that the same exceed not one third part of the penalty forfeited, and provided also, that such conviction be not upon the oath of such person only that is to have such reward.

That if any justice of peace, or his clerk, or any other, shall receive any fee or reward for any warrant, examination, or proceeding, in reference to any crimes or forfeitures by this act prohibited, the same shall be adjudged extortion.

That if any money payable for a fine or forfeiture within this act be received by any justice of peace, or any other by his appointment, other than a public officer of justice, and the same shall not be paid over within a week then next following to the overseers of the poor of the parish where the offence is committed, except what shall be allowed for reward to the prosecutor, such justice of peace, for every such offence, shall forfeit the sum of one hundred pounds, to be paid to the county stock.

The Draught of an Act for County Registers, Wills, and Administrations; and for preventing Inconvenience, Delay, Charge, and Irregularity, in Chancery and Common Law (as well in Common Pleas as criminal and capital Causes,) and for settling County Judicatures, Guardians of Orphans, Courts of Appeal, County Treasurers, and Work-houses, with Tables of Fees and short Forms of Declarations.

Be it enacted by the authority of this present parliament, That at the second general sessions of the peace, to be holden next after the passing of this act, for the city of London, and for all counties of England and Wales, which are not a city and county, or a town and county, the justices then present, or the greater number of them, shall provide and appoint some convenient place within the respective counties of England and Wales for a registry, and shall then also name six honest, able, and understanding persons, to the grand jury (after they be sworn) who shall, amongst their presentments, give up the names of two of the said six, of which two the said justices shall elect one to be register of that county; and in like manner shall proceed, from time to time, to elect a new register, upon death or removal: And when he is so chosen and sworn, and hath given security (as hereafter by this act is provided,) he shall then give present notice thereof, and of the place appointed for the said registry, to the sheriff of the said county, who, at the next county court, shall in full court make public proclamation of the place and person so appointed for the registry; and from that proclamation made, the registry shall be taken to be settled, to all intents and purposes, according to this act.

And the whole city of Bristol (as to the place of registry and matters to be registered) is to be accounted part of the county of Somerset; the whole town of Newcastle part of Durham; and every other city and county, or town and county, to be part of the county within which the same doth lie. And justices of peace within every such city and town may take acknowledgments within their respective liberties of things done there, as justices of peace of the county may do within the county, by virtue of this present act.

And every such register is hereby authorized and enjoined to provide and keep a stamp to print with ink, having the arms of this commonwealth, and encircled with the name of the respective county to which the same belongeth.

And be it further enacted, That no incumbrance that (before the said registry shall be settled) shall be had or suffered by any judgment, or made by any who might lawfully make the same, shall be of force against the lands, tenements, and hereditaments, of any that (without notice of such incumbrance) is or shall be, for a valuable consideration, a purchaser of, or shall have subsequent interest in, or charge upon the said lands, tenements, or hereditaments so incumbered, except the said incumbrance, or the effect thereof, shall be registered within the registry of the county or counties, where any will charge or take benefit of the said incumbrance, within twelve months next after the settling the said registry, or before such purchase, subsequent charge or interest.

And that no incumbrance to be suffered, had, or made, after the said registry settled, shall be of force against any subsequent charge, interest, or purchaser, for valua-

ble consideration, (not having notice as aforesaid,) except the said incumbrance shall be registred in the respective county or counties as aforesaid, within forty days next after the same shall be so had, made, or suffered, or before such purchase, subsequent charge or interest.

And if any person shall knowingly conceal any deed or instrument, whereby another is hindred from entering any incumbrance at the time of settling the said registry, within the time limited by this present act, such person so concealing shall forfeit the full value that any other person is damnified by such concealment, to the party that is so damnified thereby.

And every person within age, or of unsound mind, or beyond the seas, and women covert, shall have for themselves and their respective heirs, executors, and administrators, a full year from and after full age, sound mind, return from the sea, and being discovert, to enter any incumbrance had, made, or granted, before the passing of this present act: And all such incumbrances on the behalf of the commonwealth shall be entered in the respective counties, and within the times aforesaid, by the officers of the public revenue, who ought to issue out process for levying of the same. But all rights of pasturage, all sorts of common fishings, fowlings, private ways and passages, privileges, incumbrances by custom or prescription, title of dower, quit-rents in money, or otherwise; and rights or duties belonging to manors or seigniories at the time of passing this act, copy hold or customary estates, leases not exceeding twenty-one years, or three lives, or for any number of years, determinable upon three lives or under, whereupon the usual rent or more is or shall be reserved; and all absolute estates in fee simple or fee-tail, where the tenements in fee-simple or fee-tail, or their respective under-tenants, are in possession, are not to be held or accompted incumbrances, to be registered within the intention of this present act.

And be it further enacted, That all deeds, conveyances, or other act, by any person of full age and sound mind, passing any inheritance, freehold, or term of years; and that all discharges or releases, which barr, pass, or extinguish any estate or right; and all assignments, surrenders, confirmations, reservations, conditions, covenants, limitation of uses, powers of revocation, and all trusts touching lands, tenements, or hereditaments, or charges upon the same, and all assignments of debts, amounting to one hundred pounds or more, which shall be had, or made, after the settling of this registry, shall be acknowledged before some justice of the peace in the same county, and by him subscribed, for which he may receive sixpence, and no more. And being so acknowledged, they shall be registered, together with the names of all the witnesses thereunto, in a fair book, to be safely kept in the registry of the said county, where such lands, tenements, or hereditaments lie and be; and such assignee of a debt shall be uncapable to sue for the same until it be registered.

And be it further enacted, That where any incumbrance upon lands, tenements, or hereditaments is satisfied, the party who ought to discharge the same shall, upon request, make an acknowledgment, discharge, and release thereof, under his hand and seal, and shall acknowledge the same before a justice of peace, that it may be registered; and if he refuse so to do, the party satisfying such incumbrance may maintain an action for recovery of what he hath paid in discharge of such incumbrance; and the like law, for any who shall pay money upon a bond or bill at the day, if the party receiving the same do not deliver up the said bond or bill, or make oath before some justice of peace that he has lost it, and also give a release for the same

But if any person being in one county, shall convey, pass, charge, release, or discharge any lands, tenements, or hereditaments, lying in another county, he may acknowledge, and enter the same as aforesaid, in the county where he then is, and the register of that county shall forthwith cause a certificate to be endorsed thereupon, of the date of the registering, and sign the same with his name, and put thereto

the seal of his registry; upon which certificate, the register of the county, where the said lands, tenements, or hereditaments do lie, may and shall register the same.

And be it further enacted, That every justice of peace, taking any acknowledgment aforesaid, shall either know the party so acknowledging, or be informed by credible witnesses, that such party is the same mentioned in the deed, or act to be registered; and such justice of peace may examine any such parties, or others, on their oaths, or otherwise, for discovering of the truth; and any person acknowledging such act or deed in any others name but his own, or counterfeiting the stamp of any registry, or the name of any register aforesaid, shall be adjudged a felon, and shall suffer death, and incur other forfeitures as a felon.

And be it further enacted, That every deed or conveyance so acknowledged and registered, shall be good in law against the parties so acknowledging the same, their heirs and assigns, and all others whom such persons may justly barr, and shall pass such estate, or right, as beneficially and effectually as if the same had been passed by any fine, with proclamations, common recovery, indenture inrolled within six months in any court of record, or other course of common law, or limitation of use.

Provided always, That every married woman that shall pass, or barr any estate or right, shall first be examined alone, by the justice of the peace, and shall express her free and full consent before such acknowledgment shall be admitted, and her husband join with her in the same deed.

And be it further enacted, That every bond or bill obligatory, which shall be acknowledged by the party that made the same, and registered in manner as aforesaid, shall be of equal force with any statute-staple from the time of such registering, and within the county where it was so acknowledged and registered, and upon a certificate from the register to the sheriff, and oath made before the sheriff how much of the debt and interest is unpaid, the sheriff shall forthwith proceed to do execution, as upon writs of extent, and make return thereof to the register, who shall enter it, and have like fee, as is hereafter in this act appointed for copies.

And be it further enacted, That a conveyance made, acknowledged, and registered according to the form of this act from the time of registering thereof, shall be as good in law for any manors, lands, tenements, or hereditaments of ancient demesn, as others; and shall be of equal force as to all manors, lands, tenements, and hereditaments, (within that county where it is so registered) to bind privies and strangers, as a fine well levied in the court of Common Pleas, with proclamations by force of the statute made in the fourth year of King Henry VII. or without; saving to all persons their right, title, and interest, and like benefit of entry, action, and claim after such conveyance so registered, as was saved by the said statute after a fine levied and proclamation had and made, so as they may make their entry, bring their action, or pursue their right, title, interest, or claim, within the same time after the registering such conveyance as they ought to have done after such fine levied, and proclamations had and made; and saving also to all persons not parties or privies to the said conveyance, the like and the same exception as was saved to persons not parties or privies to any such fine by the statute aforesaid; and the passing of any estate by a fine to be levied with proclamations or without, from the time of settling the county register, according to this act, as to any manors, lands, tenements, or hereditaments within the said county, is to be no more used.

That in case any deed or bond so registered shall be lost or mislaid, so as the same cannot be produced, upon oath thereof made, any action may be brought and maintained upon a copy of the same deed or bond so registered, as if the said deed or bond were produced under the hand and seal of the party that acknowledged the same; and that

every deed or bond indorsed, registered, and attested by the stamp of the registry, shall and may be given in evidence upon all occasions, as any deed inrolled in a court of record without any further proof.

That if any shall enter, or cause to be entered in the said registry, any incumbrance which is not true to the damage of any other, such as are or shall be damnified thereby may maintain an action for such entry in the said registry, and recover their damages and full costs.

That where any person shall die seized of an estate of inheritance descendable to his heir, such heir may before some justice of the peace of the county where the inheritance descended doth lie, by witnesses upon oath, (which said justice is hereby enabled to take) prove himself heir to the party deceased; and being so proved, the said justice shall certify the same for proved to the said register, together with the proofs, which shall be a sufficient warrant for the registering of the certificate of the said justice of peace; and being so registered and attested under the said register's hand and seal of his office, shall be admitted to be given in evidence for proof of such person to be heir, as an office heretofore found upon a dying seized, returned into the Chancery; provided always, that no such certificate shall be registered within six months next after the death of the ancestor; nor then, if any person shall, before such registering, question the right of heirship, and make the same known to the register, before the right of heirship be determined by trial at the common law.

That if any (except a woman married, or a person disabled in respect of age or insanity of mind,) be to make acknowledgement of a deed or instrument to be registered, who is upon or beyond the seas, or not able to travel to a justice of the peace, he may make a letter of attorney, authorizing some other person to acknowledge the same; which letter of attorney being well proved by two sufficient witnesses before the justice of peace, who is to take the acknowledgment: the said justice of peace may thereupon take acknowledgment thereof, by the said attorney thereto authorized, in such sort as if acknowledged by the party; and being registered, together with the said letter of attorney, shall be of as good effect as if it had been acknowledged in person. And the chief officer or officers of a corporation may make an acknowledgment on behalf of a corporation of any deed or instrument under seal of the corporation; and any grant under the great seal of England may be registered without acknowledgment, upon producing the same under the said great seal, and be of like effect as other grants acknowledged and registered.

And it is further enacted, That every register so chosen as aforesaid, shall, before the execution of his office, take an oath either in open sessions or before two justices of the peace, to be certified to the next sessions for his faithful execution of and diligent attendance upon the said office; and at the same time shall also give security by recognizance of two thousand pounds to the commonwealth, conditioned, that he shall faithfully execute and diligently attend upon the said office; out of which security, satisfaction shall be made to any party by him damnified, by any undue practice, neglect, or miscarriage in his said office; and he shall be further liable to be put out, upon just cause presented by the grand jury, to be tryed and determined in open sessions. And the said register shall observe these rules and instructions following:

Instructions for the Register.

I. He shall provide one book with a fair margin, which shall be called The Book of Entries, wherein he shall shortly enter the names of the persons making the deed, instrument, or incumbrance; the person to whom and the nature thereof, with the date, and shall number the same in the margent: as, for example,

I. S. A judgment in the Common Pleas against I. N., the one and twentieth of May, 1651, for one hundred pounds debt, and twenty shillings cost. Roll. 2.

I. D. An indenture of sale of lands in S. &c. to I. S. dated the one and twentieth of May, 1651.

And shall enter every deed and instrument into his book, in the order of time as the same are brought to him.

II. He shall provide other fair books with large margents, called Register Books, and distinguish one from another by letters or otherwise, registering without delay all things appointed by this act, with the number in the margent agreeing with that in the book of entries, and close to the end of the last word of every thing registered the writing clerk shall put to his name; and then the thing so registered shall be delivered back to the party that brought it, and indorsed with the day when the same is registered, (which is to be that day when the same was first left with him) and the book and leaf wherein it is begun to be registered, and subscribe his name, and put to the stamp of his office; and when the same is so registered, then he shall make a short entry thereof in his book of entries: as, for example,

Registered the two and twentieth of May, 1652, book A. pag. 1.

III. The said register-books shall be of one size, and each of them to contain a certain equal number of leaves, to be figured and ruled on either side and end of the page, leaving a margin and a certain equal number of lines written in every page, writing ten words at the least in every line one with another; which also shall be written in a fair legible hand, without interlineations, blots, or rasures, as much as may be; and in case any shall happen, the register shall mention the same in his indorsement.

IV. The register for the city of London (besides the former books) shall keep one book distinct, wherein he shall enter all such goods, estate or trust of the same, as shall be discovered by any person whatsoever to belong to any in execution, or against whom execution is awarded within this commonwealth.

V. Where any release or other discharge is brought to the register, (besides the entry thereof) he shall also make a note of the same in the margent of that book where the charge or incumbrance was entered.

VI. The register for his indorsement and stamp shall receive twelve-pence to his own use, and twelve-pence to the use of the commonwealth; and if the thing registered exceed twelve lines, for every twelve lines with ten words in a line, besides the first twelve lines, three-pence and no more, whereof a penny to the treasury of the county towards the county stock.

VII. Every register shall make and keep perfect alphabetical tables and kalenders, whereby the names, persons, conveyances, and incumbrances may be readily found upon search, and for every search shall receive sixpence to his own use, and no more; and shall permit any person searching in the presence of the register or one of the clerks, and not otherwise, to read over any thing by him searched for; but not to take notes or copies, but such as shall be copied out by the register or his known clerks; whereof the searcher may take such part, and as little as he please, paying after the rate of two-pence for every twelve lines; and if he requires to have it certified by the register under his hand and stamp of office, he shall pay more to the register sixpence to his own use, and twelve-pence to the use of the commonwealth; and of all such certificates the register shall keep a book, wherein he shall enter a short note of his certificate, and give notice thereof to his chief clerk, who shall also keep a little book, wherein he shall enter a short note of all such certificates.

VIII. The register shall put in honest and able clerks for whom he will answer, and shall execute this office in person and not by deputy, save in time of sickness; during which time, and in vacancy of the office by death, the chief clerk shall in his own name do, receive, and act as the register, and keep the said printing stamp; and the hours of

attendance in the office of registry shall be from nine to twelve in the forenoon, and from two to four in the afternoon of every day, except the Lord's-day, and days of public humiliation and thanksgiving, and no candle-light or fire shall come into the place where register-books are kept.

IX. Any three of the justices of the peace (upon reasonable cause appearing to them) may license the register to be absent from the office, so as they exceed not forty days in any one year; and that, during the time of his absence, the chief clerk shall constantly attend and execute the said office.

And be it further enacted, That the greater number of the said justices of peace respectively at the general sessions shall chuse one to be treasurer for the county for a year then next ensuing, and until another be elected, and so shall elect from year to year, or oftner in case of death: which said treasurer is hereby made a corporation, to take lands or goods, or other things, for benefit of the said county, and to sue and be sued, and to have continuance for ever: and shall manage and dispose of the stock of the county, according to the order of the justices in public sessions; which order is to be signed by five of the justices at least who made the said order. And every such treasurer, at the going out of his office, his heirs, executors, or administrators, shall accompt to the next succeeding treasurer, and pay and deliver over by indenture all things in his or their hands belonging to the county stock.

Touching Wills and Administrations.

Be it enacted by the authority of this present parliament, That the age of any person to make or prove a will of goods or chattels, from and after , shall be seventeen years, and the age to take an administration, one and twenty years and not under; and that from and after the said day, all wills shall be allowed and administrations granted in manner by this act declared, and not otherwise, (that is to say) the allowing of wills and granting administrations, and all things depending upon the same, of all inhabitants dying within the county of Middlesex, or persons dying upon or beyond the seas, who have no fixed habitation in England, shall be within the jurisdiction of the court of Common Pleas at Westminster; and the judges of the said court, or any two or more of them, are hereby enabled and impowered to do and act as the court of Common Pleas, and at all times of the year, touching all matters and things concerning wills and administrations within this present act.

And be it further enacted, That the judges of the said court, or the greater number of them, shall appoint a register for all matters aforesaid, and all things depending thereupon within the said jurisdiction, who shall execute the same in person and not by deputy; and shall take an oath before the said judges, or any two or more of them, to be faithful and uncorrupt in his said office. And every will in writing within the said jurisdiction (and if a nuncupative will, then the effect thereof set down in writing) shall be produced by the executor (if any be named) and if none, then by some other, before some justice of peace of the said county, or some judge of the said court; and the executor (where any is named, and where none, some witness to the will) shall take his oath before such judge or justice, (who are hereby enabled to administer the same,) that he or they do verily believe that the said will is the whole last will of the party deceased: and such judge or justice shall attest the effect of such oath made before him under his hand and seal, either under the will or affixed thereunto; which shall be a sufficient warrant for the register for wills of the said court, to cause the said will to be fairly entered in a register-book by him to be kept for that purpose: and he shall take the executor's own security to bring in an inventory within forty days, according to the true intent of this act, unless the executor shall confess he hath sufficient to per-

form the will; and in such case, shall cause the executor to give his own security to perform the will, and shall then deliver back the same will, if it be in writing (and if nuncupative, a true copy thereof, testifying under his hand that it is allowed) to the executor, where any is named, or else to the administrator, with the will annexed, under the seal of the said court, if no person oppose the allowance thereof: and such allowance shall be as good to all intents and purposes as a will heretofore proved in common form, under the seal of the competent ordinary.

And it is further enacted, That where two or more persons (being within this commonwealth, and of the age of seventeen years) are made executors, if any one of the executors so named shall not within one and twenty days after notice, come in and take upon him the executorship, or shall renounce the executorship before the said register or any judge of the said court, the register shall make entry thereof in his book; and that then such person or persons so renouncing, or not taking the said executorship, shall be disabled to take upon him or them the execution of the will, or to release any debt, or otherwise dispose of the estate of the deceased: and the other executor or executors that shall take upon him or them the executorship, shall and may sue, prosecute, administer, and do all such acts as belong to the office of an executor, as if the persons not taking upon them the execution or renouncing had not been named executors in such last will.

And be it further enacted, That if any inhabitant within the said county, or any person upon or beyond the seas, having no fixed habitation in England, shall after , die intestate, or not naming an executor, or that some executor in the will named, shall not within one and twenty days after notice of such will, take upon him the execution thereof, that then the administration of such person so dying shall be committed in such manner as hereafter is limited, (that is to say,) to the husband or wife of such person so dying requiring the same; or if he or she have no husband or wife, or that such husband or wife shall not require such administration, then to the elder child requiring the same, otherwise to such next elder child as shall require the same; and if no child require it, then to the father; and if no father, then to the mother of the person deceased: and if no such father or mother be, or that such father or mother shall not require the same, then to the heir at law of such person deceased, so as the persons desiring administration (where there is no will) do first make oath that they know of no will, and give good and sufficient security, to be allowed by the said judges, or any two or more of them, faithfully to administer and to do whatsoever such administrator ought by law to perform; and in default of such security, then to such person or persons as the said judges, or any two or more of them, shall think fit, upon security given as aforesaid: which security shall be taken by the said register in the name of the keepers of the liberty of England by authority of parliament, and shall be put in suit, vacated, and discharged as the court shall find just; and all administrations granted, and allowance of wills by the register of wills, within fourteen days next after the death of any person, shall be void.

And be it further enacted, That if any person within the age of seventeen years be made executor of any will, or if any such person to whom such administration ought to be committed, shall be within the said age, or an ideot, or a lunatick, that then during such minority, lunacy, or ideocy, the said administration shall be committed to some fit person or persons to execute the same in right of the infant, lunatick, or ideot.

And be it further enacted, That if at any time before a will be allowed or administration granted, any person shall oppose the same, the person so opposing shall deliver unto the said register in writing, the grounds and reasons of such his opposition, and shall then also give security to the said register to make good the same, and to pay the adverse party costs and damages for delay; and thereupon the allowance of the will and granting administration shall be staid until the judges of the said court shall hear

and determine the same; who in such and all other cases upon complaints of the undue setting on foot, or allowance of wills, or undue granting administrations, (being put in writing and delivered to the register aforesaid,) are to hear and determine the same without delay: and in order thereunto, are impowered to summon parties and witnesses, and to punish contemners by fine and imprisonment; and if any matter of fact shall arise before them concerning any will or granting administration, then to direct a speedy trial, summon a jury, and proceed to try and give judgment for the allowance or disallowance of the said will, or granting administration in a summary way, without observing any unnecessary formality. And that during the time that any question depends before the said judges, touching the allowance of any wills or granting administration, the said judges, or any two or more of them, shall take care to preserve the estate of the deceased from perishing or being embezzeled, in such sort as they in their discretions shall think fit; and until administration be granted, or the will allowed, no part of the deceased's estate (except goods perishable) shall be altered in property, unless for the necessary charges of the funeral and sustenance of the family.

And be it further enacted, That the said executor or administrator, within forty days next after a will allowed or administration granted, shall cause three or more honest and able persons (not of kindred to the deceased, but inhabitants near the place where the deceased's goods and chattels are) to apprize the same at a true value; and within the time aforesaid shall cause the same and all the money of, and particular debts owing to the deceased by mortgage or otherwise, and all trusts of goods, chattels, or debts, belonging to the said deceased, to be inventoried and delivered into the said register, and shall before one of the judges of the said court, make oath that he doth believe that the said inventory doth contain all the goods and testamentary estate belonging to the party deceased in law or equity, without any wilful omission or undervaluation

And it is hereby declared and enacted, That the jewels of the wife during coverture are the goods of the deceased husband, where his other goods and chattels shall not be sufficient to pay his debts; and as any further estate of a person deceased after an inventory put in shall be discovered, the said executor or administrator shall cause the same, within forty days next after such discovery, to be apprized, inventoried, and the inventory delivered into the register, as before by this act is appointed; and if any executor or administrator shall not within forty days, (after any goods or estate belonging to the deceased in law or equity, shall come to his hands or knowledge,) cause the same to be inventoried, and the inventory delivered into the register as aforesaid; or if any other person shall conceal in his hands any estate, or trust of estate, liable to the debts of the deceased, and shall not discover the same to the executor or administrator, or to the register of wills, where the will is proved or administration granted, within forty days, the same (as to any creditor of the deceased, who shall sue any of the said parties for a debt owing by the deceased) shall and may be recovered for or towards the satisfaction of such creditor's debt, and if the debt amount not to so much, the surplusage shall go to the executor or administrator; and if the omission of such executor or administrator, or concealment of any other person, be wilful, then the party wilfully concealing as aforesaid shall forfeit double the value of the thing so wilfully concealed towards the satisfaction of the debt of the deceased; and if the forfeiture be more than will satisfy such debt, the surplusage shall go to the rest of the creditors of the person deceased, (if any such be) and the creditor that first discovers and sues for the same to be first satisfied; and if none, then the surplusage shall be and remain to the commonwealth.

And be it further enacted, That the allowance of wills and granting administrations of all inhabitants dying within the city of London and the liberties thereof, shall be within the jurisdiction and cognizance of the court of the lord mayor and aldermen of the said city, and not elsewhere; and the judge or judges of the said court shall pro-

ceed and act in all matters concerning allowance of wills and granting administrations, and all things depending upon the same within the said jurisdiction, as the judges of the court of Common-Pleas, (or any two or more of them) within the county of Middlesex; and he that is chief clerk of the said court in London shall also act and have like benefit within the said jurisdiction of London as the register for wills of the court of Common-Pleas within the county of Middlesex.

And be it further enacted, That the allowance of wills and granting administrations, and all things depending upon the same, of all inhabitants dying within all other the respective counties of England, shall be within the several and respective jurisdictions and cognizance of the several and respective courts of judicature of the said counties, hereafter in this act appointed; and the five judges chosen by the council of state for every such judicature, (as is hereafter directed) or any three or more of them, within their respective counties, (whereof one to be learned in the law, or one of the judges of the courts at West-minster) shall chuse a register for wills and administrations; and shall and are hereby impowered to proceed and act in all things touching the premises within the said respective counties as the judges of the Common-Pleas, or any two or more of them, may do within the county of Middlesex; and the said register of each county judicature, shall and may do and receive within such county as the register of the court of Common-Pleas within the said county of Middlesex.

And be it further enacted, That all places (as touching all matters within this act) are to be accounted within the several and respective counties of this commonwealth, in such sort as for registering conveyances in the county registry; and that the allowance of wills and granting administrations of persons dying in Wales, shall be within the several jurisdictions of the court of great sessions, who within their several jurisdictions shall have like power as the said court of Common-Pleas within the said county of Middlesex.

And the proof of a will, and granting administration of any person dying in a journey, or upon or beyond the seas, where such person hath a fixed habitation in England or Wales, shall be in the place of such fixed habitation.

And be it further enacted, That any person having a will in his custody, and wilfully concealing the same, by the space of one and twenty days (next after his knowledge of the testator's decease) from the executor, or the court having jurisdiction thereof, or register of the same, and where himself is executor from the court which hath jurisdiction of allowing it, or the register thereof, such person being thereof convict, shall suffer such pains and punishments as a person convicted of perjury within this act.

And be it further enacted, That where any person requires to have witnesses examined for proof of any will, he may repair to the register of the court where the will ought to be proved, and deliver to him in writing the names and sirnames of all such witnesses, with their qualities and places of habitation; and thereupon the said register shall enter the said witnesses names in the register-book, and cause a copy of their names, qualities, and places of habitation to be made and fixed upon public place (where the court of judicature for wills is usually holden) for three court days, declaring by whom the said persons are produced, and for proof of what will; and if within twenty days next ensuing there shall be no order to the contrary by the judges of the judicature having jurisdiction for allowing of wills, the said register may proceed to cause such witnesses to be sworn before any of the said judges, and may examine them, and enter their examinations in books for that purpose; and the said examinations, or true copies attested under the register's hand and seal of the said court, are to be allowed as good evidence in all courts and places, (if such witnesses be dead, or cannot be brought to give evidence) when their testimony is to be used touching such wills.

And be it further enacted, That the surplusage of the goods, chattels, and personal estate of an intestate, after funeral charges and debts paid and discharged, shall be dis-

tributed in manner following: (that is to say) one third part to the husband or the wife of the intestate, and the residue to the children, in such proportion as every one may have an equal share, accounting what they have received as portion from the intestate in his or her life-time; and if any of such children be dead, their part shall be divided amongst their children after the same manner, and for want of children, grandchildren, or other lineal descendants of the intestate, then the whole to remain to the husband or wife of such intestate; and if there shall be no such husband or wife, then all the surplusage to be amongst the children of the intestate, in manner as aforesaid; and if any of the children be dead, their part or share shall be divided amongst their children in like manner. And for want of such children, or other lawful descendants from them, the said surplusage (remaining over and above one third part to the administrator) shall be divided amongst the brothers and sisters of the intestate; and if any of them be dead, then his or her share shall be divided amongst his or their children in like manner; and where there is no brothers or sisters, the same to go to the father and mother of the intestate, and for want of such, to the grandfather or grandmother: and there shall be no further or other division or distribution of the estate of such intestate, but the distributions of all intestates estates, made by the judges for probate of wills and granting administrations, shall stand and be of force as the same are by them already made.

Provided, That this distribution shall not extend to the estates of free-men of London, nor to any intestate's estate, where the same is partable already, according to custom.

And be it further enacted, That legacies in kind (after necessary funeral charges and debts) are first to be paid, and legacies in money to abate in proportion, where the estate will not pay the whole, (if there be no direction in the will to the contrary:) And where any legacy is payable to an infant, lunatick, or ideot, the court allowing probate of the will, may give order for payment to such person or persons, and upon such good and sufficient security, as they shall think fit, and for the executor's discharge, or of such other party as shall pay the same.

And though a legatee hath received his whole legacy, the court may order restitution of such part as they shall find to be more than his share, by reason of debts or duties owing by the testator, discovered after such legacy paid, or the testator's hopeful estate becoming desperate: And that as well legacies as dividends within this act, and debts or duties owing by executors or administrators, shall and may be recovered within the said court of judicature, having allowance of wills, or in any other manner by action, formed upon the case, according to the course of the common law, and either plaintiff or defendant may be examined upon oath in the said courts, touching the truth of any thing in demand in such courts.

And be it further enacted, That the payment of a due debt by an executor or administrator, by specialty or without, (not having notice of debts to the commonwealth, or by judgment, statute, or recognizance, at the time of payment) shall not be accounted the wasting of an estate.

And be it further enacted, That where an executor or administrator, after an inventory put in, shall desire to pass an accompt, and have a discharge, he shall bring his accompt, in writing under his hand, of all receipts and payments, and make oath of the truth thereof before the register of wills, or the judge of the court, and deliver it to the said register, who shall file the same, and cause to be entered in his register-book the day when the accompt was filed, and shall thereupon cause a writing to be made, and sign it with his hand, to this effect:

"The day of A. B. the executor or administrator of C. D. brought in an accompt of his estate, and desires to have his discharge; if, therefore, any party will oppose it, he may except against the same within six months, from

the date hereof, otherwise the accompt will be allowed; which writing he shall affix in some public place, where the court usually sits, for six court days."

That if within the said six months no exceptions be taken, or being taken, the accompt notwithstanding allowed by the judges having jurisdiction touching wills and administrations, who are hereby authorized to hear and determine the same, and examine parties and witnesses, and try matters of fact by jury, (where there are exceptions taken,) the register shall thereupon enter the same in his register book, and cause a copy of the said accompt to be put under his hand and seal of the court; and the same accompt, as to all matters of payment particularly mentioned therein and allowed, shall be final, and a full discharge to such executor or administrator, upon producing the same upon any trial, or other occasion whatsoever.

And be it further enacted, That if any person find himself aggrieved, by any undue allowance of a will, or undue granting of an administration, he may in the court of the county judicature, where the same was allowed or granted, (or in the courts at Westminster, where the estates or persons concerned are in several counties,) bring an action upon his case against such executor or administrator, and the same to be tried according to the course of the common law; and if the jury find for the plaintiff, then such allowance of the will or administration to be adjudged void, and the will to be allowed, and administration granted, according to the right of the party found by such verdict, which is to be final; and upon every trial in such action, where any verdict is given, or the plaintiff becomes nonsuited, or discontinues his suit, the court is to give full costs on either side, as there shall be cause, and the party that is to pay the costs shall also pay a fine of twenty shillings to the commonwealth.

And be it further enacted, That where an executor or administrator, with a will annexed, shall have proved a will by witnesses to the judge's satisfaction having jurisdiction as aforesaid, the said judges shall declare the said will proved by witness, and the register shall enter the same and the day thereof in the register book; and (at the desire of any party requiring it,) shall certify the same, or a true copy thereof, under his hand, to be proved by witnesses, and put the same under the seal of the court, which shall be allowed to be given in evidence in any court or place whatsoever.

And be it further enacted, That if an heir shall be enforced to pay any debt of the ancestor, where the executor or administrator is liable to payment, (and have sufficient testamentary estate to perform the will, pay debts and funeral charges, and also the debt paid by the heir,) such heir may maintain an action grounded upon his case, against such executor or administrator for what he hath so paid, as if he were a creditor of such ancestor, and recover as far as there shall be assets, with costs and damages.

And be it further enacted, That manors, lands, tenements, or hereditaments, and the rents and profits of the same, which shall be devised, to be received or disposed for payments of debts, or performance of a will, shall (as to the value of the same) be assets, to all intents and purposes, for payment of such debts and legacies, at the suit of any creditor or legatee, as other the personal estate of such testator: But if the said manors and lands shall be conceived to be over valued by a jury, the party sued may deliver the same at the value to such as shall recover any debt or legacy, or suffer execution to go against the said manors, lands, tenements, or hereditaments, and free his own proper estate: Nevertheless, any other creditor, or legatee of the deceased, may, within six months after such recovery, pay the said debt and damages recovered, and shall have the said lands, tenements, and hereditaments, towards his or their satisfaction, and enjoy the same accordingly.

And be it further enacted, That all prohibitions for stay of suits in, and writs of having the body, and other writs, for removing suits out of any of the said courts,

and all writs of error, upon judgments by confession, or upon default, for not pleading, or after any general verdict, for any matter within this present act, shall be held null and void.

A Table of Fees, touching all Matters within this Act.

To the commonwealth for the seal, where the deceased's testamentary estate exceeds not 50*l.*	0	0	6
Where it exceeds 100*l.*	0	1	0
Where it exceeds 500*l.*	0	2	0
For administring every oath	0	0	4
To the register, for the summons of any parties or witnesses to appear, not exceeding ten in one process	0	1	0
To the commonwealth for the seal	0	0	6
To the register, for every order shortly drawn up	0	0	6
To him for examining a witness, and entering his examination in the registry	0	2	6
To him for a search, and liberty to read	0	1	0
To him for taking security	0	1	6
Whereof he is to pay sixpence to the county register for entering it there.			
To him for process of execution, upon any security by him taken	0	1	0
To the commonwealth for the seal	0	0	6
To him for vacating or discharging any security	0	0	6
To him for every administration granted, or allowance of a will, not exceeding twelve lines, with ten words in a line, and entry thereof in the registry-book, and his care in preserving the same	0	2	0.
And where a will exceeds twelve lines, for every twelve lines above the first, three-pence, whereof one penny to the commonwealth.			
To the register for entry of any suggestion in opposition of any will, or granting administration, if under twelve lines, accompting ten words to a line, two shillings; if above twelve lines, three-pence for every twelve lines above the first, whereof one penny to the commonwealth.			
To him for all copies, two-pence for every twelve lines, accompting ten words to a line: And if his certificate be required under the seal of the court, twelve pence to him for his certificate and entering the same, and sixpence to the commonwealth for the seal.			
For writing any thing not herein expressed, for every twelve lines, with ten words in a line	0	0	2
For an answer in writing to a petition	0	2	6

Touching the Chancery.

Be it enacted by the authority of this present parliament, That the court of Chancery shall hear and determine all causes of equity in one certain public place, to be appointed by the judge or judges thereof, from time to time, and not elsewhere: And that there shall be in the said court, a chief-clerk, to be chosen from time to time by , who shall, from and after , make forth all process and all commissions, and other things, issuing out of the said court, and shall take the returns of the same, and file them: And also all bills, answers, pleadings, and depositions in the said court, and enter, and keep all the re-

cords thereof, and matters filed, (as of record,) there: And shall have such, and so many under-clerks for writing and dispatch of business under him as shall be allowed and approved by the judges of the said court from time to time, who shall administer an oath, both to the chief-clerk and under-clerks, to deal faithfully and uncorruptly in their places: And out of the fees payable to the chief-clerk shall appoint how much the under-clerks shall have for their pains, where the fees are not ascertained to such under-clerk in the table of fees herewith published; which chief-clerk and under-clerks shall constantly attend, and exercise their places in person, and not by deputy: And upon the avoidance of the chief-clerk's place, the under-clerks shall from time to time succeed according to their antiquity, if they be not found uncapable of executing the said office: And all the records and matters filed on record in the said court shall, from and after , be in the custody of the said chief-clerk, who is hereby appointed to take the same in his charge.

SECT II.

That there shall be such and so many attorneys of the said court as the judges thereof shall from time to time appoint, who shall be under-clerks to the chief-clerk, and take the like oath as attorneys at the common-law; and until such appointment be made, the six clerks and clerks of the petty-bag, and the under-clerks to the six clerks in their office, and to the clerks of the petty-bag in their office, shall be attorneys of the said court, who shall solicit their clients business, and instruct and assist them throughout the course of proceedings in their causes.

SECT. III.

That the process for appearance in the said court of Chancery shall hereafter be by summons, and not otherwise, which summons shall be thus:—

"The keepers of the liberty of England, by authority of parliament, to A. B. of C. in the county of D. We command you to satisfy R. D. of F. concerning the complaint in his bill, a copy whereof we send you, or within fifteen days, after notice hereof, to appear and answer the same. Given under the great seal of England, the day of ." And the name of the party that made the summons, and the true party that sued it forth, or the attorneys name, shall be underwritten.

SECT. IV.

That a plaintiff may put the names of all defendants into one summons, and that (and all other process of the said court) shall be sealed open: And the shewing the summons where the defendant is present, and leaving a fair copy thereof with him or her, and a copy of the bill; or leaving a copy of the summons and bill at his or her habitation, with some person there, (if any be to be found,) or else at the door of the house, (if no person be there to be found,) shall be a good service on that defendant: And the party serving the same shall indorse the summons with the time and manner of service, and make oath thereof before some justice of peace or master of Chancery, and return it whence it issued, and the bill shall be duly filed at or before the return of the summons. And if the defendant will examine his copy with the bill filed, he may do it without fee; and, if desired, like examination of copies of other pleadings which are filed shall be made without fee.

SECT. V.

That from and after the establishing of county registers, any person that exhibits a suit in equity for any manors, lands, tenements, or hereditaments, shall not have the benefit of any decree to be made touching the same, as against any purchaser, or other claiming interest in or profit out of the same for valuable consideration, but

from the time of the entry of such his claim, suit, or decree, in the registry where the same do lie.

SECT. VI.

That the defendant being duly served, and not appearing, shall forfeit forty shillings to the plaintiff, and twenty shillings to the commonwealth: And process shall be made forth, directed to the sheriff, coroner, or such other person as the plaintiff shall name, to attach the defendant by body, lands, and goods, to inforce him to appear and answer, returnable at such time as the plaintiff shall desire: And if the defendant doth pay the aforesaid forfeitures and charge of the process, and under his hand, on the back side of the said process, declare, that he will appear at the return thereof, and within eight days after make his defence; or otherwise shall make oath before the sheriff or coroner, (who are hereby enabled to take the same,) that he had no notice of the said summons, with such declaration to appear and answer as aforesaid, then the said process shall not be executed, or being executed, shall be discharged: And such process, either executed, or thus indorsed, or where it cannot be executed, shall, at the return-day, be returned whence it issued, and be there filed: And in case the body cannot be attached, and issues be returned upon lands or goods, the same shall be to the value of four pounds, which shall be forfeited for not appearing, one half to the commonwealth, the other to the plaintiff.

SECT. VII.

That where the person of the defendant shall not be attached upon this process, and in custody, or the said process indorsed as aforesaid, or the defendant shall not appear on the return thereof, the like process shall be sent to all the sheriffs and coroners of England, and such others as the plaintiff shall name: And the defendant shall also stand disabled to prosecute any suit in any court, (except in causes where issue is joined, and there only to trial,) and the court may also sequester the thing in demand by the bill from the party not appearing, until appearance and answer, except it appear to the court by oath, that, (at the service of the summons,) the defendant was not within this commonwealth; in which case the court may give such time for appearance and answer as shall be meet.

SECT. VIII.

That where any defendant hath declared under his hand, that he will appear as aforesaid, and appeareth not, or is in custody for not appearing, or having appeared for not answering, or not answering sufficiently, the court shall order him to answer, or the bill to be taken confessed; and if, within eight days after notice of that order, the defendant shall not answer accordingly, the said cause shall be put in the book of hearings, and such decree made thereupon as if the defendant had confessed the equity in the bill: And if upon the said hearing it shall appear that the said defendant ought by answer to discover any thing for the plaintiff's relief, the court may inforce the same, by strict restraint of the said defendant, and fine to be imposed by the court; one half thereof to the commonwealth, the other to the plaintiff.

SECT. IX.

That where a defendant doth appear, and doth not answer, plead, or demur within eight days, he shall forfeit five pounds for the first eight days default, to be paid to the plaintiff, and ten pounds for every eight days default after, one half to the plaintiff, the other half to the commonwealth: And the party plaintiff, may nevertheless in such case take forth such process as before to attach the defendant by body, lands and goods; and in case his body be attached, and it doth not appear that he hath lands and goods, sufficient to answer the plaintiff's demand, his body shall

be kept in safe custody until he hath paid the costs and forfeitures, and given good security, (to be taken in the name of the plaintiff, and approved by the sheriff, or such party as doth attach him,) to appear upon the return of the process and answer, and not depart without the leave of the court.

SECT. X.

That any justice of peace, or a master of the Chancery in ordinary, may take an answer upon oath, signed with the defendant's hand or mark, and shall deliver the same himself, or transmit the same, close sealed up, to the chief clerk; and upon such delivery made, or (transmitting, with an oath, that it was not altered since it was so sealed up,) the same shall be received and filed by the said clerk as if it had been sworn in court or returned by commission: And a justice of peace may also take an affidavit, so as he put his hand and seal thereto, and name the place of his habitation: and the same may be made use of in any court, as if the same had been sworn before a judge of the same court, but no rasure or interlineation is to be made in any affidavit whatsoever.

SECT. XI.

That where the plaintiff or defendant do cause answers, pleas, demurrers, re ca-tions, or rejoinders, to be filed by the chief-clerk, they shall give to the adverse party, or leave with his attorney for him, a true copy of the same, which he shall have without fee.

SECT. XII.

That where any defendant appears upon the return of summons or process, if the bill exactly agreeing in substance with the copy delivered be not filed, he shall have his full costs, to be taxed by the chief-clerk, without further attendance than the next daya t noon after the return-day, and not to appear again upon suit of the same party before the costs paid, and upon new summons.

SECT. XIII.

That where any defendant pleads or demurs, if it be in term-time, the same shall be determined within the fourteen days after the same is put in; if in vacation-time, either before or in the first week of the next term; to which end, the judges of the court shall appoint certain times for the determining the same, not interrupting the course of hearing other causes, and shall upon the first hearing of a plea or demurrer, give their positive order therein without a second hearing: And where any plea or demurrer is over-ruled, the defendant shall pay forty shillings for a fine to the commonwealth, besides the plaintiff's costs.

SECT. XIV.

That when a sufficient answer is put in, the plaintiff shall reply within eight days; and if it be insufficient, shall within eight days put in exceptions thereto, or enter it in the register's books for hearing upon the answer, otherwise the cause to be dismissed without any motion, and the chief-clerk to tax full costs within the time aforesaid, and no dismission-fee to be paid by the defendant in this or any other; but if the plaintiff will in such case pay full costs and charges, he may exhibit a new bill.

SECT. XV.

That references to particular masters in Chancery be forborn, and there shall be from henceforth but six masters of the Chancery in ordinary, to be named by the parliament, and new ones elected at the end of every third year, and to have
by the year; whereof three shall sit daily at some certain public place, so long as

any thing depends in reference before them, and shall have a register to attend them; which three masters, or two of them at the least, shall hear and report all things under their hands which come before them, always ending one cause before they begin another.

SECT. XVI.

That for the orderly hearing of causes and motions in court, and references before masters of Chancery, the register shall keep two distinct books, in one of which any party who hath a cause ready for hearing or motion shall enter the same; in the other of them, every person who hath any reference to the masters of the Chancery shall enter the same in the register always (in the margin) figuring the books by numbers according to the time of their entry, and the party entering every such cause or reference subscribing his name: And there shall not hereafter be any motions in court for references of insufficient answers to bills or interrogatories, or touching contempts, or for scandal, or impertinency in bills or answers; but any party desiring a reference in any such case may enter the same in the said book of references, to be heard before the masters.

SECT. XVII.

That if the judges, or masters of Chancery, shall hear any cause, motion, or reference, in any order than as they are set down in the said register's books, they shall forfeit twenty pounds, one half to the commonwealth, the other half to the party whose cause should have been heard in due course; and the register to forfeit five pounds, (to be paid in moieties as aforesaid,) that shall alter the number in the said book, except it be by consent of parties, or where neither party doth attend, and then such cause to be put at the end of all the causes then entered in the said books respectively.

SECT. XVIII.

That upon a second insufficient answer, the party shall be committed and kept within the prison until he make a sufficient answer.

SECT. XIX.

That in case exceptions be taken to a report requiring the opinion of the court, the same shall be entered in the book for motions, and the party excepting shall deposite three pounds with the register; and if the court shall judge the exceptions good, it shall be restored him, and the adverse party shall pay him forty shillings cost; but if his exceptions be adjudged frivolous, the commonwealth shall have twenty shillings of the three pounds, and the adverse party the residue.

SECT. XX.

That after a defendant hath once appeared, he shall perfect his answer and join in commission, and attend the hearing upon notice to his attorney or known solicitor, without any more process, and the plaintiff to do the like after he hath replied.

SECT. XXI.

That in every case where commissions are prayed to examine witnesses, duplicate commissions shall issue at the request of the defendant, to be executed in such counties as either party shall think fit, which may be executed in any place, and returnable within sixty days from the date; and at the return, publication to pass of course, and either party or his attorney to be at liberty to enter the same into the register's book of hearing; and if no commission issue, and witnesses be examined in court, the cause shall be published within sixty days from the time of the replication, and then to be entered

with the register as formerly: But where commissions are to be executed beyond the seas, the chief clerk shall set down a time for return and publication, and either party may produce, or by process of court enforce such witnesses to testify at the hearing, as he could not produce within sixty days to be examined, so as notice be given in writing to the other party (before publication) of such witnesses names and places of abode, and to what points they are to be examined at the hearing; and where the court gives order to any to examine parties or witnesses, the same is to be done by virtue of that order, without any commission, and the charges of commissions in such case are to be spared.

SECT. XXII.

That where witnesses shall be examined to prove a contempt, the party accused may likewise examine witnesses to clear the same.

SECT. XXIII.

That commisioners for examination of witnesses shall take an oath before execution of any commission, to execute the same faithfully and impartially, which each commissioner is impowered to administer to the other; and the clerks attending such commissioners shall take an oath, (which is to be administered by the commissioners,) to write down the depositions of the witnesses truly and indifferently without partiality; and every witness shall be sworn and examined, and his deposition put in writing in presence of the commissioners, and not elsewhere.

SECT. XXIV.

That after publication, either party, or any of them, may view the depositions of either side, and not be obliged to take copies of any more than he shall conceive material, so as he take not the part of a deposition to one interrogatory; and plaintiffs and defendants may (if they agree) take but one copy of all or any part of the depositions, and make use of the same.

SECT. XXV.

That no stay shall be made of any proceedings at the common law, upon a bill of exchange between merchants, nor of execution upon a judgement at law upon a bill exhibited after the said judgment, without a defeazance in writing of such judgment, until the final hearing of the cause.

SECT. XXVI.

That no stay of any proceedings at law shall be but upon equity confessed in the parties answer who is stayed, or where the party stayed is in contempt for not answering, or not sufficiently answering to some material charge; and in such case the stay to be void upon clearing the contempt, or sufficiently answering without any further order.

SECT. XXVII.

That where any cause comes to hearing, the judges shall determine the same without delay or any second hearing; but if both parties consent, the cause may be put the last in the register's book of hearings, or where the parties consent to a reference, the court may refer it.

Provided, That no judge before full hearing doth move either party to consent in either of the said cases; and where any reference shall be made by consent of parties, they shall not have power to countermand it, and an award or arbitrament made thereupon shall be final, as if the reference were made by order of court, and shall be sufficient ground for a decree: And the judges shall sit constantly, as well in vacation as term,

until all causes and motions in the register's books be heard and determined; and they shall in all cases pronounce their decree presently in court at the hearing, save in cases of very great difficulty, and there not to exceed ten days, and not to hear council a second time in the said cause.

SECT. XXVIII.

That the register shall not execute his office by deputy, (except in case of sickness, and then the court to appoint one) and shall in his draught of orders shortly express the sense of the court (as rules in the courts of common law) without any unneccessary preambles; and if the register draw up any order contrary to, or not agreeing with the order pronounced in court, he shall answer the party grieved thereby his full costs and damages, to be given him by the court, or to be recovered by action upon the case at his election.

SECT. XXIX.

That the register shall upon every decree pronounced in court, enter the very words of the decree in his book, without any interlineation, and publickly read the same in court, at that sitting of the court to be there allowed; and the judges shall sign all decrees publickly in court, at certain times to be appointed for that purpose, which decrees are to be drawn up forthwith after the decree pronounced, and that from and after no suit shall be admitted in any court of equity, for obtaining any decree for any manors, lands, tenements, or hereditaments, upon any pretence of trust or agreement whatsoever, which shall not appear in writing under the hand of the party who ought to perform the same, or by some deed or will in writing.

SECT XXX.

That in all cases where a plaintiff is dismissed, the defendant shall have full costs; and where the plaintiff hath just cause of relief, the plaintiff shall have full costs, saving in case where he might have had the like benefit without suit, and there he shall have no costs, but pay the adverse party full costs, and a fine of forty shillings to the commonwealth; saving also where the defendant by answer submits to the judgment of the court, and claims nothing to his own use, in which case he shall pay neither costs nor fine, but the plaintiff to pay him costs if the court find cause; and where the plaintiff is relieved for part, and dismissed for part, either party to pay costs to the other; and if a plaintiff be relieved against one or more defendants, and not against others, such others shall have their full costs; and where any is to pay costs and is not able, such party shall be sent to the work house to work during the pleasure of the court, (one half of the benefit of his work to go towards payment of costs) or be whipt, or both, at the discretion of the court: and no person is to be admitted to sue as a poor man, unless he bring a certificate from some justice of the peace, councellor or serjeant at law, or judge of the county judicature, of his poverty and the justice of his case.

SECT. XXXI.

That in all cases where a plaintiff is dismissed, he shall pay a fine to the commonwealth of twenty shillings; and if the plaintiff hath a decree against any defendant, such defendant shall pay a like fine to the commonwealth, where he pays costs to the adverse party; and a defendant for every insufficient answer (after the first) shall pay a like fine to the commonwealth, and a plaintiff a like fine for frivolous exceptions: and every person judged in contempt, or that shall unnecessarily trouble the masters of the court, by entering a reference before them in the book, shall pay a like fine to the commonwealth.

SECT. XXXII.

That the shewing a decretal or other order of the court under the register's hand to the party who is to observe the same, and leaving a copy thereof with him, or leaving the same at his dwelling with some person there, (if any be to be found) or otherwise at the door of the house, shall be a sufficient service, and the party shall be in contempt, if he yield not obedience thereunto within eight days, and thereupon process may and shall issue to attach his body; and if the order be to pay money, then also to levy the same of his goods and chattels, lands and tenements, as upon a judgment of the common law, and direct it to the sheriff or coroner; and the sheriff and coroner in execution of their offices, upon process forth of Chancery, shall have the same power as in execution of process at common law, and levy their own fee, besides the money for the party or commonwealth, and behave themselves as in cases of other executions: And all process of summons under a penalty, and the course of arresting, by any other writ of attachment than is by this act appointed, attachment with proclamation, commission of rebellion, messenger and serjeant at arms (as to the execution of any process of the said court) shall be henceforth forborn, and the writs of executions, of orders and decrees, and injunctions under seal, to be no more used.

SECT. XXXIII.

That where any man is attached for breach of a degree, he shall not be set at liberty but by special order of the court; and in all such process of attachment it shall be mentioned that it is for breach of a degree.

SECT. XXXIV.

That there shall be no more money ordered to be paid into the court, unless by consent of both parties, and no fee shall be paid for paying out the money already in court: And the party who ought to have damages for detaining any money which is brought into court, shall have it during the time the money remains in court, to be paid by such as were the cause of bringing it into court.

SECT. XXXV.

That where any party may now take forth a *subpæna* of course to bring in a deed, the register shall grant an order of course under his hand, and like order where the court directs it, and the *subpæna ducens tecum* to be forborne; and the register shall take, for such order and entering it, twelve pence, and no more.

SECT. XXXVI.

That the time of redemption of lands mortgaged before, or at the passing of this law (where no suit is depending for the same) shall not exceed two years from the passing of this act; and the time of redemption upon any mortgage after to be made, shall not exceed one year from the entry of the mortgagee, after the condition broken; and from the time of entry within the year, and until redemption, the mortgagee shall receive double damages, if it be redeemed, unless where an infant is the heir of a mortgager, and to redeem; who shall have two years and not above, from the time of the entry of the mortgagee, after the condition broken, paying single damages; and that in all cases where the mortgagee dies, leaving an heir within age, and the mortgage redeemable, such heir, upon satisfaction of costs and damages, may join with his guardian to make reconveyance of the land mortgaged, and the same shall be good against such infant, and all claiming under him.

SECT. XXXVII.

That from the time of hearing, in suits now depending in courts of equity upon mortgages, there shall not be in any case above six months allowed for time of redemption, from the hearing of the cause, and there shall be no stop of any legal proceedings upon any mortgage, unless equity be confessed in the defendant's answer, or adjudged by the court upon the hearing of the cause.

SECT. XXXVIII.

That a mortgagee entering, and a mortgager redeeming lands mortgaged, the mortgagee shall not be responsible for more than the profits he hath clearly made of the lands, while he had the same in mortgage, deducting his necessary charges, which shall be determined by the oath of the mortgagee, his heirs or assigns, and no other proof shall be required or admitted.

SECT. XXXIX.

That the form of the oath shall be, "That neither the mortgagee, nor any other deriving title under him to his use, hath made other or more profits of the lands than are given in upon such oath, as far as he knoweth, believeth, or can possibly discover, and that there hath not been any fraud, or wilful neglect, so far as he knoweth or believeth, in the management thereof, whereby the best profit was not made to his use of the lands or tenements mortgaged."

SECT. XL.

That in case where a court of equity relieveth against a penalty or forfeiture at common law, the party relieved shall pay the adverse party double damages, unless in case of infancy, or where it shall appear by proof that the default was not by or through his carelessness or negligence; and the surplusage of mortgage-money, upon an estate mortgaged in fee-simple forfeited, and redeemed, shall go to the heir after the mortgagees debts paid, and his will performed (if he made any;) if not, then the surplusage of the money, after payment of debts, shall go to the younger child or children of the mortgager unprovided for.

And be it lastly enacted, That a table of fees shall be hung up in the court of Chancery for causes in equity: And no serjeant or counsellor at law, officer, minister, or clerk of the said court, shall take any other fee or sum of money, for or in respect of any cause there depending, or copy of any record, or other thing there filed and registered, or put to the seal, upon pain to be punished as an extortioner, and disabled to bear any office of trust or profit in the commonwealth, unless the same shall be allowed by parliament:

Which Table of Fees shall be as followeth:

	l.	*s.*	*d.*
To serjeants and barristers at law, upon a motion, reference, giving advice, or signing bills or pleadings	0	10	0
For a hearing, or arguing a plea or demurr	1	0	0
To the masters of the Chancery, for examining every skin of an exemplification of a record	0	2	0
For taking the acknowledgment of a deed or recognizance to be inrolled	0	0	6
To the chief clerk for writing the summons, and filing upon the return, besides the seal	0	1	0
The like fee for a summons to testify.			

	l.	*s.*	*d.*
For the seal of that and every other process, to the use of the commonwealth	0	0	6
For administering any oath	0	0	4
For process of attachment by body, lands, or goods, or any of them, and filing upon return, besides the seal	0	1	0
To the attorney for the plaintiff, for filing the bill the first term	0	3	4
The like to the defendant's attorney for putting in the answer.			
To the attorney of either party in the term, when issue is joined	0	3	4
To the attorney of either party at the hearing	0	3	4
And three shillings and fourpence more for preparing a breviat and instructing council.			
To the clerk that ingrosseth a commission to examine witnesses	0	2	0
To the examiner for examination of a witness, or upon contempt	0	2	6
To the clerk for writing and ingrossing depositions upon a commission, for every twelve lines, containing ten words in a line	0	0	3
To all the officers of the court respectively, where they are required to subscribe their names to any thing in court ready written, by way of certificate, four-pence (if it exceed not twelve lines, with ten words in a line;) if it exceed twelve lines, and under twenty-four, eight-pence; if above twenty-four lines, twelve-pence.			
For the filing an affidavit, one penny; and for copies for every twelve lines, with ten words in a line, two-pence.			
To the register for drawing and entering every order, not exceeding twelve lines, with ten words in a line, twelve-pence; and for every twelve lines above the first, six-pence; and for copies of orders, for every twelve lines, two-pence.			
For drawing decrees and dismissions, to the attorney, for every twelve lines, with ten words in a line, three-pence; for inrolment, two-pence; for an exemplification, three-pence, for every twelve lines, with ten words in a line.			
For a search, and reading any order or record in Chancery	0	1	0
To the cryer and door-keeper, to each of them, upon the final hearing of every cause, from the party that hath the decree, or for whom dismission is pronounced, twelve-pence.			
For the copy of any record in chancery, or other thing there filed, not before particularly expressed, two-pence for every twelve lines, with ten words in a line, the party taking what part he pleaseth.			
For writing any thing to the seal, not before mentioned, for every twelve lines, with ten words in a line, three-pence; and to the commonwealth for the whole great seal, the same fees that have been accustomed.			
For every answer in writing a petition	0	2	6

Touching the Common Law and County Judicatures.

For the preventing unnecessary charge and delay in recovering of rights by the course of the common law, be it enacted, by the authority of this present parliament, That there shall be six judges for the court of Upper Bench, and six for the cour of Common Pleas, at Westminster; and that all common pleas between party and pa y, which shall be commenced at Westminster, shall, from and after , be commenced in the court of Common Pleas, and not elsewhere: And all barristers

at law, as well as serjeants at law, may plead there, and all attorneys (to be allowed as hereafter is by this act appointed) may practise at their election in any court.

SECT. II.

That in every county of England (except London and Middlesex) there shall be a court of record, called the county judicature, which shall have power to hear and determine all matters which justices of peace, justices of oyer and terminer, or justices of gaol delivery, may hear and determine: And also to hear all causes tryable in the county, and to hear and determine all personal and mixed actions there commenced; and shall have like power, to all intents and purposes, within the said county, for the administration and execution of justice, in capital and criminal causes, and upon penal statutes, and in all personal and mixed actions commenced in the said court, if the cause of action ariseth within the said county, or for any thing lying within the said county, or in transitory actions which concern not title of land, where the defendant lives there, as the justices of the Upper Bench and Common Pleas have in their respective courts.

SECT. III.

That the said judicature shall consist of five judges, besides one of the judges of the courts at Westminster (six in all,) which five judges shall be chosen in manner following: that is to say, the justices of peace at their second general sessions of the peace, next after the passing of this act, shall choose ten of the most honest, understanding, and able men inhabiting within the said county, of which two (at the least) to be learned in the law, and present their names to the council of state, who shall out of them chuse five (and one of those five at least to be learned in the law), who shall be judges of the said judicature for three years thence next ensuing; which new election shall be by the justices of the peace at the general sessions next after the twenty-fifth day of March, after three years, and by the council of state, in manner before expressed, and to have continuance for three years, and like successive new elections for ever: And where any of the said five judges die, or shall be removed within the said three years, the council of state is to put in one into the place of such judge, out of the names formerly presented, to continue till the new general election.

SECT. IV.

That the judges of the said judicature, or any two or more of them, with the chief clerk of the said court (hereafter appointed) or any three or more of them without him, may and shall all times of the year (except days by law prohibited) hold the said court for awarding and returning process, and preparing causes for hearing or trial, and may adjourn the court to such time and place within the said county as they shall think fit, not exceeding one week at a time, except in the time of the harvest, and then not exceeding one month: And the said judges, or any three or more of them, (whereof a judge of one of the said courts at Westminster, or one learned in the law, to be one) may award judgment by default, writs of enquiry of damages, or judgment and execution upon defaults, as shall be just; and may also summon jurors, and hear and determine all personal actions, or actions for possessions where no title comes in question; and all matters which justices of peace may now do, in general and quarter sessions of the peace; and may summon juries for taking all inquisitions which are to be taken before the sheriff of the county, and with the sheriff to take inquisitions accordingly, and to do all things which are to be done at the county court: And the said judges, or any three of them (whereof a judge of one of the said courts at Westminster to be one) may award process to summon jurors, and may proceed

to hear and determine all matters which justices of gaol delivery or oyer and terminer may do; and may also hear and determine all causes commenced in the said judicature, and try by jury all causes whatsoever triable within the said county, and shall be called the general session, where the sheriffs and all justices of peace, coroners, and high constables, shall give their attendance: And the want of adjournment, or not coming of the judges, shall not discontinue any suit there commenced, or hinder the judges from meeting at any other time.

SECT. V.

That any person having judgment for debt or damages in any county judicature, shall, upon request to the chief clerk, have a certificate under the seal of the court, to the court of Common-Pleas, mentioning what sum is truly due to the party; which the chief clerk of the court of Common-Pleas (hereafter appointed) shall enter upon record, and thereupon award execution of course into any county of England, until the sum certified be levied, as if it were a judgment in the same court; which certificate shall be thus:

"These are to certify unto the judges of the court of Common-Pleas, that A. B. hath recovered in the court of this judicature against C. D. of F., yeoman, the sum of , which remains unpaid (or whereof remains unpaid.) Given under the seal of the judicature of the day of ."

And after such certificate made, there shall be no further execution in the said county judicature: And if execution cannot be done in criminal causes upon judgments in county judicatures within the said county, the same are to be certified into the court of Upper-Bench, and execution to be awarded thence, as upon judgments in the same court.

SECT. VI.

That four times in the year shall be appointed by three or more of the said judges (whereof a judge of one of the said courts at Westminster to be one) for holding the said generall session; at which time a judge of one of the said courts at Westminster shall be present, who shall be thereto appointed by the commissioners of the great seal of England for the time being, taking three out of each court at Westminster, who shall be distributed according to the six circuits now in England, as by the said commissioners of the great seal shall be appointed, and shall not depart until the business of the said general sessions be determined; and those which ride one circuit shall be spared the next, and attend the business of the said court at Westminster, unless it be by his own consent, and by order from the commissioners of the great seal.

SECT. VII.

That the chief prothonotary for the court of Common-Pleas, and the clerk of the peace in every respective county of England, for the time being for every county judicature, shall be chief-clerk of the said respective courts, and shall continue in the said places until others be elected, in such sort as the parliament shall direct; which chief-clerks shall have such and so many able clerks under them as the judge or judges of such courts shall think fit and necessary, for making out and sealing all the processes of the said court, entering the rules, keeping records, and entering judgments; all which processes shall be with true dates, and a short entry thereof made in a book, to be kept by the said chief-clerks for that purpose. And out of the fees payable to the chief-clerk, the said judges (three or more of them) in their respective courts, shall appoint how much the under-clerks shall have for their pains. And the said court of Common-Pleas shall be open all times in the year for awarding and returning processes: And the

said chief-clerk and under-clerks shall take an oath in court to deal faithfully and uncorruptly in their places. And upon the death or removal of the chief-clerk, the first under-clerk shall succeed, unless the court assign just cause to disable him; and in such case the next able clerk in order shall be chief-clerk. And the records of the several counties in England, now in the hands of the keepers of such records, shall be removed and kept by such person as shall be appointed by the court of the county judicature in the respective counties (except the city of London and county of Middlesex;) and the office of keeper of the said records in the said respective counties shall hereafter cease.

SECT. VIII.

That the judges of the court of Common-Pleas, or any three or more of them for the county of Middlesex, and the judges of the respective courts of county judicatures, within their respective jurisdictions, or any three or more of them (whereof one to be a judge or counsellor at law) shall hear and determine all controversies concerning marriages, and all things depending upon the same, and concerning maintenance demanded by a married woman (called alimony) in a summary way by petition, which shall be filed with the chief-clerk: And all questions whether a marriage be good or not, or whether alimony ought to be granted, or how much, or any matter of fact in order to the determining the said questions, shall be tried by a jury upon such issue as the court shall direct; but the allowance of alimony shall not exceed a fifth part of the husband's estate. And if any woman shall complain for alimony, and it shall be found by a jury that she hath no such cause of complaint, if she shall not thereupon submit herself to her husband, and desire his pardon, and cohabit with him, she shall be sent to the work-house to be kept at work until she conform.

SECT. IX.

That where a guardian is not appointed by the parent of a child, within the age of twenty-one years, to whom he leaveth an estate, the said judges, three or more of them as aforesaid, within the said respective jurisdictions, shall and may appoint a guardian, and change him as there shall be cause; and shall take order for the pious and virtuous education of every such child, and endeavour to prevent their marriages without their guardian's consent, or to their disparagement, before they attain their said age of twenty-one years, and to preserve their estates from spoil and destruction; and shall have power to call such guardians to accompt, and give them reasonable allowance for their pains and charges, and enforce them to make speedy satisfaction to every such child of what is justly due from them, and may punish such guardians, or others, by imprisonment and fine, to the use of the county stock, if they contrive or abet the marriage of any such child without consent of the said judges. And they shall have the like power touching lunaticks and ideots, as of children under the age of twenty-one years; and to hear and determine all matters of charitable uses as fully as commissioners under the great seal, upon the statute for charitable uses.

SECT. X.

That the court of the lord mayor and aldermen of the city of London, within the liberties thereof, shall have like power touching charitable uses, marriages, alimony, provision for children within age, lunatics and ideots, as the said judges of the court of Common-Pleas within the county of Middlesex, not altering the custom concerning orphans of freemen of the said city.

SECT. XI.

That the chief-clerk in each respective court shall provide and keep a seal for such

court, having the arms of the commonwealth of England engraven thereupon, and encircled with the name of the court to which it belongeth, under which all the process thereof shall issue.

SECT. XII.

That the first process in all common-pleas between party and party, and informations upon penal statutes, shall be a writ of summons, which shall be directed to the party summoned; and in all personal actions shall be thus:

"The keepers of the liberties of England, by authority of parliament, to A. B. of C. in the county of D. These are to command you to pay unto E. F. of G. which he claimeth to be due from you to him, or at the first sitting of the justices in the court of next after fifteen days from your notice hereof, you are to appear either in person, or by attorney, and answer to his complaint hereunto annexed. Given under the seal of the court of , the day of , in the year ." And the name of the clerk that made it, and the true party that sued it forth, or his attorney, shall be underwritten. And in real and mixed actions, the summons shall be to require him to render the thing in demand, and to pay damages where damages are to be recovered, or to appear and shew cause at the court as aforesaid.

SECT. XIII.

That the length of declarations shall be forborne, and nothing immaterial inserted, but briefly the substance of the complaint, according to the forms set down at the end of this act, which shall be precedents for brevity and sufficient certainty in all cases; and no evidence shall be admitted in any case whatsoever to vary from the time laid in the declaration above thirty days.

SECT. XIV.

That the plaintiff in any summons may insert the names of all the defendants to his action; but no blanks is to be left in this or any other writ.

SECT. XV.

That the plaintiff, or such as he shall appoint, may serve the said writ of summons, by leaving a copy of the writ, and of his declaration, signed with his own hand, or his attorney's, with every defendant, or at his last habitation, and shewing the writ itself (if it be required;) and the party serving it shall fix the writ and declaration under the attorney's hand together, and endorse upon the said writ the time and manner of serving it, and make oath thereof in court, or before any judge of the court, or justice of peace, which judge or justice shall subscribe his name; and then the writ with the declaration shall be returned to the chief-clerk of that court, and shall be by him filed.

SECT. XVI.

That if the defendant appear in person, or by attorney, upon the return of the writ of summons, and the declaration be not filed as aforesaid, he shall have his full costs, to be forthwith taxed by the chief-clerk: But if it be served, and summons returned and filed as aforesaid, and the defendant doth not appear at the time limited, then shall issue to the sheriff of that county (where the first summons was served) a second process to attach the defendants, or any of them, by body, lands, and goods, to enforce an appearance at a certain day to be appointed by the plaintiff, who may also renew the same as oft as he shall see cause; and all process returnable at a day certain shall be expressed by the certain day of the month.

SECT. XVII.

That upon a suit commenced in the court of Common Pleas, if the sheriff shall return that the defendant is not to be found, nor hath any goods or chattels, lands or tenements, then a like process shall be awarded generally to all the sheriffs of England, and such other persons as the plaintiff will name, until he can be attached by body, lands, or goods, to bring him in to answer.

SECT. XVIII.

That if the party to be attached, or his lawful attorney, doth offer an appearance before the return of the writ, and express the same under his hand on the back of the writ, the sheriff shall make return thereof, and the attachment shall be d scharged, unless the plaintiff will come before the sheriff and make oath that his demand from the defendant is really due, and that he believeth the defendant will make away his goods; in which case, the sheriff shall take security from the plaintiff to answer the defendant costs and damages, if his demands shall not appear to be really due; and thereupon, if the defendant shall not give good security to the sheriff, to pay the condemnation, or to answer the value of the goods attached, if judgment pass against him, then the sheriff shall inventory, appraise, and secure the said goods for the plaintiff's satisfaction, if he recover.

SECT. XIX.

That the issues to be returned, forfeited by a defendant upon an attachment, by his lands or goods for default of appearance, shall not exceed forty shillings; whereof one half shall be to the plaintiff, the other to the commonwealth.

SECT. XX.

That the sheriff making return upon the attachment, that he hath attached the defendant by body, lands, or goods, or returning an offer of appearance on the back of the writ, under the hand of the defendant or of his attorney; if he shall not appear in person, or by attorney, on the day so limited, the court shall award a recovery for the plaintiff as upon default, after appearance in any personal action, and thereupon a writ of enquiry of damages shall issue; and all writs of enquiry of damages, except in London and Middlesex, shall be executed by the sheriff in the county judicature; and where the defendant appears by an attorney, notice shall be given to the attorney ten days at least before the writ of enquiry be executed of the execution thereof; and where there is no attorney, the sheriff shall cause the time of execution of every writ of enquiry to be affixed to some public place of the county judicature, ten days at least before execution thereof: and if the plaintiff or sheriff be in default for not executing the same at the time so appointed, the adverse party shall have his full costs for attendance from the party in default, to be forthwith taxed by the chief clerk of the said court whence the writ issued; and the sheriff shall take and return the inquisition to the court to be filed by the chief-clerk, who shall thereupon immediately award execution without any stay made by the court in any case, or for any time whatsoever.

SECT. XXI.

That where any party demurreth, he shall (at once) set down all the causes of his demurrer certainly and particularly, and where there is a joining in demurrer, the court shall give judgment only upon such particular causes, and no other.

SECT. XXII.

That after a demurrer, the adverse party shall have a time, not exceeding four days, to amend the defect, paying ten shillings for costs, and such amendment to be final to him.

SECT. XXIII.

That no demurrer shall be made for want of giving colour in pleading, which colour is hereby utterly taken away, not for want of a new assignment in an action of trespass, but the plaintiff shall specify the place in his declaration; and the common bar, as to the enforcing of a new assignment in pleading, is hereby also utterly taken away.

SECT. XXIV.

That the time for a defendant to plead or demur shall not exceed two days after the time assigned for his appearance, which appearance shall be either by the defendant himself or his attorney, repairing to the chief-clerk of the court, and writing his name under the declaration, and the day thereof; if he will plead the general issue, he shall write, or cause to be written, under the declaration, That the plaintiff hath no such cause of complaint as in the declaration is alledged; which words are hereby declared to be the general issue in all actions; and for want of such plea or demurrer within the times, the chief-clerk shall award judgment, and a writ of enquiry of damages.

SECT. XXV.

That where there shall be any special pleadings, the copies shall be given to the adverse party without fee, and the pleadings filed with the chief-clerk; and where a defendant pleads the general issue, he shall also set down the substance of what things he will insist upon for his defence in evidence at the tryal, not exceeding two things at the most, which he is hereby enabled to give in evidence, and also put the plaintiff to the proof of his declaration; but this law is not to restrain or prejudice any persons who might have pleaded the general issue, before that act of the late parliament, entituled, "An Act touching Corn and Meal."

SECT. XXVI.

That in all cases where a plaintiff be the executor, administrator, or other, doth not prosecute, discontinues his suit, or becomes non-suited, or that judgment pass against him, he shall pay full costs; and where he recovers, he shall have full costs, except the jury find full satisfaction, with cost of suit rendered by the defendant before his plea; for in such case the plaintiff refusing such tender, or proceeding after it, shall both lose his own costs and pay full costs to the defendant, but such tender shall be no bar to the action; and if a plaintiff put several distinct things into a declaration, and doth not prove all of them, as he shall have costs for what appears material, so he shall pay costs for what shall be adjudged causeless, and shall not be necessitated to put the words of *force* and *arms* into his declaration upon an action of trespass, but where some weapon is used; and if he do complain of several persons, and fail in his proof against any, he shall pay costs to such defendants as are acquitted, the jury to assess the costs in all cases tryed, and the chief-clerk in other cases; and that in all cases where the plaintiff is non-suited or discontinues his suit, or judgment goeth against him, there shall be a fine of ten shillings paid by him to the chief-clerk, to the use of the commonwealth; and where judgment is given against a defendant, he shall pay like fine: and in case either party be poor, and cannot pay costs or fine, such party shall be whipt, or go to the work-house (hereafter in this act appointed) or both, at the discretion of the court, and for such time as they shall direct; and in all cases and courts where costs are to be taxed, it is to be understood as well the parties necessary charge for his own attendance and witnesses, as the ordinary costs of suit: and if a plaintiff (who is not admitted to sue as a poor man) be adjudged to pay costs in any action, the same shall be paid by the attorney in the suit, if such plaintiff be not to be found within this commonwealth; and that whosoever a fine certain is payable to the commonwealth, or costs payable to any party in any court of law or equity, it shall not be in the power of the court to remit

or abate the same, or to delay the payment or levying thereof; and the persons to whom they are due may levy the same by execution, as upon other executions within this act.

SECT. XXVII.

That where there is prosecution in civil causes in the behalf of the commonwealth, those who prosecute, if they recover, shall have costs, if not, they shall pay costs; and the party prosecuted before plea pleaded may tender satisfaction, and have like benefit as upon a tender at the suit of a common person: and that upon the general issue pleaded in any case, the plaintiff shall within two days join issue thereupon, or shall be non-suited; and if he plead specially, the plaintiff shall reply within fifteen days, and the defendant rejoin within eight days after replication.

SECT. XXVIII.

That after issue joined, at the request either of plaintiff or defendant, the same shall be tryed that day seven-night in the place where the same is tryable, if the justices shall be then and there sitting; otherwise at their next sitting in such place, after those seven days: except in cases appointed for trials at the bar at Westminster, which are to be tryed upon a day certain to be appointed by the court, and the jurors are then to appear upon the first summons.

SECT. XXIX.

That the judges, without consent of both parties, shall in no case defer trials above the space of fifteen days, longer than the time hereby formerly limited for trial, and that only for some just cause made to appear to the court upon oath; and upon payment of such costs to the adverse party, as he shall make oath he is or shall be put to by reason of such delay, before any longer time be granted.

SECT. XXX.

That for the better tryal of causes by jurors, (who are the judges of fact) the justices of peace at the general sessions to be holden next after the 30th of December yearly, shall cause to be written in a book the names of all such persons, inhabitants within the said county, as shall be of honest lives and conversations, of good understanding, able to read, being above the age of twenty-five years, and under the age of sixty, and worth one thousand marks of clear estate, (other than judges, practising lawyers and attorneys, preaching ministers, and deaf and impotent persons) and shall deliver the same to the sheriff of the said county, who shall return or impannel no other to serve upon any grand or petty-jury, (except foreigners in the trial of a stranger, or women for enquiry whether a woman be with child, as by law is now used:) and the justices of peace in every city and town corporate, shall do the like in order to trials in such places, and the estate of jurors there shall be three hundred pounds at least.

SECT. XXXI.

That the way now used of summoning and returning of grand and petty-jurors to serve at assize, sessions, and upon tryals, (other than at the bar at Westminster) shall be henceforth forborne and no more used; and instead thereof, out of the said jury-book, the sheriff shall return such number of jurors, and at such time and place, as any court of gaol delivery, county judicature, session, or judge for hearing, determining or trial of causes shall require, in one piece of parchment; and that no list or notice of names of any jurors returned, or to be returned by the sheriff, shall be given by him or his officers to any person whatsoever, before the day of appearance, save only each juror's name, to the juror himself so returned, who shall have one warning and no more, four days at least before any trial, (except in trials at the bar at Westminster, where they shall have ten days notice, if they live within one hundred miles of Westminster,

and twenty days notice if above one hundred miles;) and every juror returned making default, or not attending to serve when he is called, shall forfeit five pounds for every such default to the county stock, other than upon trials at the bar at Westminster, and there to forfeit ten pounds for every default; and the court upon oath are to judge of defaults.

SECT. XXXII.

That the names of jurors returned (other than upon trials at the bar at Westminster) shall (by the chief clerk or register) be written over in several pieces of paper, and at the court's appointment be put severally into a box; and where there is a grand jury, fifteen names; and for all other juries, twelve names shall be drawn out of the said box by way of lot and not by choice, to serve on such juries (saving all lawful challenges to the persons, but no challenge to be hereafter allowed for want of hundreders,) and such jurors shall sit covered in some convenient place of the court, to hear their evidence or charge; and the names of the petty jurors, after their verdict given, shall be put again into the box; but no juror shall be twice returned, until all in the jury book have served once, or be dead, or live out of the county, or have paid the penalty upon defaults.

SECT. XXXIII.

That no juror shall take any thing from any party in any tryal, except they be brought out of their own counties, or appointed by the court to take a view; and then also they shall have no allowance, but by special order of the court.

SECT. XXXIV.

That after general verdicts, in personal and mixed actions, where no bill of exception is rendered, there shall be no arrest of judgment, nor any writ of error after judgment.

SECT. XXXV.

That in special verdicts, the material points in question, and those only, shall be particularly expressed before the judges and jury in court, and the case shortly drawn up on both sides, without mentioning any thing immaterial; and if any difference arise thereupon, it shall be stated by the judge or judges that hear the trial; and upon all so stated and entered in the form of a case, and upon no other matter, the court in which the cause depends shall give their judgment, which is to be done in these cases and upon demurrers within one fortnight at the utmost; and in case the term ends within that fortnight, the judges shall proceed notwithstanding after the term, to determine the same within that time, which shall be accounted term-time for that purpose.

SECT. XXXVI.

That no argument by council shall be admitted upon special verdicts or demurrers, touching the exposition of any act of parliament.

SECT. XXXVII.

That upon issue joined in an action of debt upon a specialty (or upon a writ of enquiry) the jurors shall not be bound to find the full debt contained in the specialty, but shall find the true debt and true damages, according to the rate of loan of money permitted by statute, and no more; and the jurors shall in such cases give double damages for the true debt, from the time of the action brought, and full costs of suit, and it shall not be error, if jurors (in regard of the plaintiff's damage between the time of commencing the suit and trial) give more damage (if they find cause) than is laid in the declaration: And if two or more persons be bound as sureties for another, and any

of such sureties shall be enforced thereupon to pay the whole debt, or more than their due proportion, he or they may by action upon the case sue and recover against the other surety or sureties, his or their valuable proportion, with costs and damages, so that no one surety may be damnified more than another who is able to contribute: And all suits to be commenced in equity for relief against penalties of bonds entered into before the day of , or upon pretence of payment of part of the money, or for contribution in case of joint-suretiship, and the entering into all penal bonds from and after the said day are to be forborn and no more used: And the plaintiff in any civil action may require the oath of the defendant, or the defendant the oath of the plaintiff, for the manifestation of the truth of the matter in question, who are hereby enjoined to answer to such questions thereabouts before the jury, as the judge before whom the cause is depending, or to be tried, shall appoint; and if they be contemptuous, the judge may in such case stay the plaintiff's suit, or imprison the defendants till they give obedience.

SECT. XXXVIII.

That if any cause commenced in the courts at Westminster be tryable in any county (other than London and Middlesex) the chief clerk of the court at Westminster shall deliver all the copies of issues joined for that county, to the judge appointed for that general sessions of the county judicature, who shall cause the same to be there tried, and then without delay return the same to the said chief clerk from whom he received them, that judgment and execution may thereupon proceed.

SECT. XXXIX.

That the officer to whom the entry of judgment belongs shall (when he enters any judgment upon the roll) set down the true date of such entry in the same roll, in words at length; and if there be a mis-entry of such judgment, the chief clerk shall pay the damage which is incurred by the mis-entry thereof; and the party wilfully mis-dating the entry of any such judgment (whereby any person is damnified) shall suffer corporal punishment by whipping, which is to be done publickly at the next sitting of the court after conviction, and to be hereafter incapable of any office in trust whatsoever.

SECT. XL.

That no man shall be liable to any action for any debt contracted by his wife during their inter-marriage, or by his child or servant, without his special direction or express consent.

SECT. XLI.

That in actions of accompt, if the jury find the defendant accomptable, the judge before whom the cause is tried shall presently give judgment to accompt, and then (sitting the court) the jury shall assign five of themselves to be auditors, to take the accompt; and they or any three of them may chuse an able accomptant, and swear him to deal faithfully in that accompt, and shall and may examine parties and witnesses, send for books and papers, and commit refractory persons to prison till they conform: And any three or more of them shall certify under their hands and seals the foot of such accompt, and make oath in court, or before some justice of peace, that they believe the same to be true; upon which the court shall give judgment forthwith in the cause: And the cause to whom the accompt shall be returned shall have power to allow such reasonable charges as they shall think fit, both to those that certify the accompt, and the accomptant employed therein, which charges shall be paid by the party adjudged to be in default.

SECT. XLII.

That where upon any trust any man is accomptable, there may be an action of accompt brought at common law; and where any action of accompt lies in any case at common law, it shall be tried at common law, and not elsewhere.

SECT. XLIII.

That an action of accompt shall lie against an executor, and the executor of an executor and administrator; and where an executor dying intestate, or an administrator hath a judgment for debt or damage, and dieth before execution, the person (to whom the debt or damage so recovered shall belong) may sue forth execution upon the judgment: And that the death of plaintiff or defendant, after a verdict of demurrer joined, shall not abate the suit.

SECT. XLIV.

That one and the same kind of execution shall be had for creditors against debtors, upon judgments, recognizances, and all statutes (that is to say) the whole chattels, debts, lands and tenements, reversions and remainders, and all goods (except necessary wearing apparel) as well such as he hath, or as any other hath in trust for such debtor, and possession shall be delivered upon the first writ of extent; and if those will not suffice, the creditor may take the body of the debtor in execution, and require him to work in the work-house (hereafter in this act appointed,) half the profit of which work shall be for the benefit of the creditor; but if such debtor be not able to work, the creditor shall allow such debtor sixpence a day, during the time he holdeth his person in prison; and prisoners in execution for debt or damages are not to be suffered by the gaoler to beg: And the court, or such as they shall appoint, shall judge of the ability or disability of such person to work, and also direct the manner thereof: And that, notwithstanding the restraint of any person upon execution, it shall be in the power of the creditor to permit him to go abroad, for what time and in what manner he shall think fit; and that there shall be no fee paid to the keeper during such liberty, nor he to be responsible for him during that time; nor shall the same be any discharge of the debt or suit whereupon such person was taken in execution, and the creditor may arrest him again, and remand him to the work-house: But where any debtor's body shall be kept in execution in the work-house by the space of one year (not being committed for any contempt,) if the judges of the court (whence execution issued) shall (upon examination) find him miserably poor, and unable to satisfy the execution, they may give him liberty of his person, and cause him to be restrained in execution again in the work-house, as they shall find just, but his estate shall be ever liable till all judgments be satisfied.

SECT. XLV.

That in or near adjoining to every common gaol, there shall be a work-house erected; and to that end the grand jury of every county, at the second general session after the passing this act, shall present six honest, able, and understanding persons of the same county, out of which the justices shall chuse three, to continue for a whole year (and longer till new be elected,) and to be governors of the work-house in that county: And the clerk of the peace shall give notice to those persons elected, to meet at ten of the clock at a certain day within a fortnight after their election: And the first meeting shall be in the place where the session was held, and from thence to be adjourned as the governors think meet; and for every default of appearance each person elected shall forfeit twenty pounds, to be paid for the work-house stock to the treasurer of the county; and those three shall lay a tax on the county sufficient to

erect or provide a work-house and stock for it; and those three, and all succeeding governors, may set down orders in writing for the government of the work-house; but such tax and orders shall be considered, and, if need be, amended, by the justices at the sessions from time to time, and be there confirmed; and the said tax to be levied by the sheriff and high constables, by distress and sale of goods, as money for the relief of the poor, and shall be paid to the treasurer of the county, and shall not be disposed of but by warrant from the governors, or two of them: And for any abuse of the governors or officers, they may be proceeded against by indictment, to be heard and determined in open sessions, and may be fined according to justice, which fines are to go to the work-house stock: And if any committed to the work-house do escape, he shall be sent to the house of correction, and there whipt, and then sent back to the work house, there to remain at hard labour, till he be discharged by due course of law; and all consenting or aiding to such escape, are to be sent to the house of correction, and to be whipt; and the gaoler for the time being shall have the government of the work-house under the governors, and shall be responsable for the persons therein, as part of the gaol or prison.

SECT. XLVI.

That any debtor lying in execution for debt or damages, by the space of one month or more, if the creditor shall cause a bonnet of yellow cloth to be sent to such debtor, and require the same to be worn by such debtor, that then the debtor shall from thenceforth, during the time he is to continue in execution, wear the same, for the uppermost covering of his head; and if the said debtor shall be seen walking abroad, without leave of the creditor, with any thing on his head, without the said bonnet uppermost, and shall be thereof convicted, he shall have a collar of iron rivetted about his neck, in such sort as may be visible, and not to be taken off during his imprisonment.

SECT. XLVII.

That any person having judgment to recover debt, damages, or costs, may extend all the lands and tenements of the debtor, or may, if he please, elect to have such part of the lands and tenements as shall be worth the same; and the sheriff shall thereupon by deed, sell the said lands and tenements to the creditor, and deliver him possession, to hold to him and his heirs for ever, or for such estate as the debtor had in the same; yet if the debtor, his heirs, executors, or administrators, shall, at the end of one year then next ensuing, pay the execution-money, and double damages for the same, from the time of execution awarded until payment, and such costs of suit as the jury valuing the said lands and tenements shall then set down, at such place as the debt was formerly agreed to be paid, and if no such place was formerly agreed, then at such place as the said jury shall appoint, the said execution to be utterly void; and the creditor, upon such payment, shall make oath before a justice of peace of the same county what clear profits he hath made of such lands and tenements during the said year's possession, and shall deliver the same clear profits to the debtor; which oath (as to the said profits) shall be conclusive both in law and equity: But in case the lands or tenements, or any of them, so set out, be not redeemed within one year, by such payment as aforesaid, and shall appear to be incumbered or defective in title, or any part of lands extended shall be incumbered or evicted before execution satisfied, the creditor, upon complaint to the court where the first execution was returned, may warn the debtor, his heirs, and assigns, to answer, why a new execution should not issue to satisfy so much as is due to him; and for want of a sufficient cause shewed the court shall award such new execution.

SECT. XLVIII.

That where an action is brought against an infant, the court shall not stay upon any plea of minority of that infant, and lands and tenements subject to execution shall be liable thereunto in the hands of an infant, lunatick, or ideot, during minority, lunacy, or ideocy, but their persons not to be imprisoned; and if the creditor upon such execution require to have part of the lands sold for satisfaction of such execution, the jury shall then value such lands according to their true and clear yearly value, and set out so much as shall be sufficient for the satisfaction of the creditor's execution: But the guardian or friend of such infant, lunatic, or ideot, shall have liberty to redeem the lands in such case, before the infant comes of age, or during the said lunacy, or ideocy, to the use of such infant, lunatic, or ideot, paying the principal money and single damages: And if the lands be not so redeemed, the infant, within one year after he is of full age, and the lunatic, or ideot, after he becomes of sound mind, or any of their heirs, within one year after their death, (the plaintiff discounting the full clear profits he hath received in the mean time,) may redeem the lands; and that neither in this case, nor in the former case of execution, there shall be any waste made during the time allotted by this act for the redemption of the said lands.

SECT. XLIX.

That in case one recover against the husband for the debt of the wife, her lands liable to the judgment shall be sold, as in other cases, if the creditor require the same; but after the death of the husband, the wife shall have one year's time to redeem; and in case she die, then the heir shall have one year's time, except it appear that such wife gave her consent to the sale of those lands in her husband's life-time.

SECT. L.

That in case any plaintiff will put in good security before the chief-clerk of the court, whence the summons issued, or before the justice of peace, before whom oath shall be made of the service of such summons, that he will prosecute his suit with effect, and pay the defendant costs and damages, if his suit be vexatious, (which security is to be approved of by such chief-clerk, or justice of the peace, and taken in the defendant's name;) and shall also enter the said summons with the register of the county where the defendant's lands (intended to be charged) lie: In such case, if the plaintiff shall obtain judgment in the said suit, the lands and tenements of such defendant, as well such as he hath or had, or any other hath or had in trust for him, at the time of the service and entry of the said summons, within the said county, as after, shall be liable to such execution.

SECT. LI.

That no execution shall be avoided by any omission of any part of the lands liable to execution, but the party grieved by such omission shall call in any other party liable to contribution.

SECT. LII.

That where any person oweth any debt, or hath any goods or estate belonging to any person, in trust or otherwise, against whom execution is awarded, or any goods or estate remaining in his hands upon any trust, by the delivery of the person in execution, he shall within one month, after he knows execution to be so awarded against the said debtor, enter such goods and estate in the registry office of London, or give personal notice thereof to the party who hath the execution: And if he shall not do

the same within the time aforesaid, or shall wilfully conceal any part of the goods or estate belonging to any debtor in trust, or otherwise, knowing them to be his goods or estate, and knowing execution awarded against him, such person shall forfeit double the value of such goods or estate, so not entered or concealed, towards the satisfaction of the creditor's debt; which forfeiture (exceeding the debts) shall be to the use of the commonwealth, after the creditor is satisfied throughout the debt due to him by the party against whom the execution is awarded: And that no person that shall owe any money, or have any goods or estate, knowing the same to belong to, or to be in trust for the person against whom execution is awarded as aforesaid, shall pay such money, nor deliver, or suffer such goods or estate to be delivered unto, or to the use of that person, until the execution be satisfied: And if any person shall buy goods of or belonging to any other, after judgment for debt or damages, knowing that execution is awarded thereupon, such sale shall not be good against the creditor, except it were made by a minister of justice in execution of his office; but it shall not be adjudged wilful concealment of a trust for the time past, if the party trusted doth make oath that he had forgotten the same: And if any money be paid, or goods delivered to a person, or bought of him, against whom execution is or shall be awarded, the person buying, paying, or delivering such money, or goods, shall be discharged from any penalty, upon taking his oath in court, or before a justice of peace, in the presence of the party which hath the judgment, that he did not know either directly, or indirectly, that such party was a prisoner for debt, or that execution was awarded against him: And he that shall not discharge himself by taking such oath, shall pay the value of such money or goods delivered over again towards satisfaction of the execution, or of so much as will satisfy the same.

SECT. LIII.

That if the creditor of a debtor, against whom execution is awarded, shall make oath in writing in court, or before any justice of peace, that he suspects the said debtor to conceal any part of his estate, or any other person to be indebted to such debtor, or trusted for such debtor, or to conceal any debts, or goods belonging to such debtor, the court shall thereupon examine, or cause to be examined, the said debtor upon oath, either in court, or before some justice of peace, touching the same, and summon such other persons so suspected, to appear before the court at some short day, to answer touching the same: And the party serving the said summons shall with the same, deliver a copy of the said oath; and if the party summoned shall not appear upon such summons, or appearing, shall either refuse to be examined, or to answer directly to the satisfaction of the court, he shall for such offence be committed to prison, there to remain until he conform: But if such party summoned shall appear and be examined, he shall have such charges as the court shall direct, unless before such summons he did not discover (being thereunto required) what upon his examination he confesseth: And if the debtor shall refuse to be examined, or shall not make positive and direct answer upon such examination, or shall after one month's imprisonment in execution, be convicted that he hath wilfully concealed any part of his estate, trust of estate, or debt due to him, to the value of five pounds, or above, he shall for such offence be publickly whipt, by receiving nine strokes at the least, and not above fifteen, and shall be kept to work 'till he conform.

SECT. LIV.

That where any debt is delivered upon execution, the party to whom the same is so delivered may sue for it in his own name, without laying other certainty in his declaration, than shall appear upon the sheriff's return of the execution; and such debt shall not be accounted as satisfaction of any part of the execution, until it be re-

ceived; and if his debt be more than to satisfy the execution, he shall receive no more than will satisfy the execution; and if he sues for it, he shall sue for no more than will satisfy the said execution.

SECT. LV.

That where the body or lands of any person shall be in execution for debt or damages, at the time of passing this act, the creditor shall have the same and like benefit against his lands and tenements, goods and chattels, debts and trusts, and for discovery of the same, as any person should or might have after judgment and execution within this law; and in case such person has not lands or goods sufficient to satisfy his debts, then such parties may be put to the workhouse, and wear the distinction of habit, according to the direction of this act.

SECT. LVI.

That the justices of peace of every county (other than corporations) shall at the general session to be held next after the twenty-ninth day of September, yearly, chuse three of the most able and fitting persons within the county, to be high sheriff thereof for the year ensuing; and within thirty days after such election, present the same to the speaker of the parliament, (sitting the parliament) and in the interval to the president of the council of state, whereof one is to be chosen sheriff; and such sheriff shall have his patent, and pass his account, upon tendering himself ready to account, without delay, or paying any fee whatsoever: And any person that is to pass a sheriff's account, and shall delay the same, or receive any money, gift, reward, or promise from a sheriff, or any other on his behalf, for, or in reference to, the passing any such account, such person shall be disabled to bear office of trust and profit in the commonwealth, and shall pay such sheriff tenfold what shall be so received. And the said sheriff shall not at any public meeting, for the execution of his office, give any entertainment by way of feasting, or other hospitality, to any but of his own family, except poor people by way of alms; nor shall give or send any gift or present to any judge or justice, nor have above eight persons in badge or livery to attend him; and every sheriff for every entertainment, gift, or present made contrary to this act, shall forfeit one hundred pounds; and for every badge or livery above the number of eight, twenty pounds; to be paid to the treasurer of the county, towards the public stock of the county; and the justices of the peace shall provide sufficient guard for the service and security of the courts of justice within their county, to be paid by the justices out of the treasury of the county; and no fine shall be imposed upon any sheriff by any judge for any offence in his office, (except for abuse or delay in not returning or executing legal process) before such sheriff shall be indicted and convicted for such offence.

SECT. LVII.

That all persons shall be alike liable to the proceedings of justice, without any benefit of priviledge; and in all counties there shall be execution done, and all process and warrants served and executed by the sheriff, and other officers of the county, without regard of any particular liberties or privileges: And the sheriff or other officer endeavouring to execute any process or warrant, for the apprehending any person, may make fresh pursuit after and apprehend him, although in any other county; and whosoever shall harbour or entertain any person in his house or lodging, against whom execution is awarded, knowing the same, and shall conceal, or deny to deliver such person, being demanded of him, such person shall pay the whole debt owing by the person against whom the execution is awarded. And if a sheriff upon execution shall levy goods in the possession of the debtor, belonging to another person (except the houses and goods of travellers in common inns) no action shall lie against the sheriff for the same; but

upon complaint, and making proof of the property of such goods, before the court whence the execution issued, upon or before the return of the writ of execution, the same shall be delivered to the party whose they appear to be. And where any goods are delivered in execution, which shall be recovered upon a title preceding the execution, the court (upon oath made of such recovery) may award a new execution for the value of the goods so recovered.

SECT. LVIII.

That the execution shall be returnable at a certain time, such as shall be appointed by the plaintiff, and mentioned in the writ; and that the plaintiff shall have liberty to renew his execution when he pleaseth, until satisfaction.

SECT. LIX.

That if the sheriff shall forbear his return of the writ of execution, after the time of the return of it, he shall forfeit for every week after such default, one tenth part of the debt due to the plaintiff, which tenth part shall be paid to the plaintiff.

SECT. LX.

That for neglect or wilful delay of a sheriff or coroner, in not serving or returning the process of attachment, or in giving possession where possession is to be given, the sheriff shall forfeit ten pounds, one half to the party, the other to the commonwealth; and upon every default this fine shall be doubled, and shall not be in the power of the court to remit or abate this fine; nor shall the same bar the party concerned from his action against such sheriff or coroner for his damages.

SECT. LXI.

That if any sheriff, under sheriff, coroner, bailiff, or other officer, that is to execute any process of law or execution, do directly or indirectly give notice of any such process or execution to the party against whom the execution is awarded, or any upon his behalf, before the same is actually served, the party given such notice shall pay the thing in demand, and have his remedy over against the party who ought to have paid the same; and if he be not able to pay, he shall be committed to the house of correction, and stay there till the creditor be satisfied.

SECT. LXII.

That if any goods or money be levied in execution, the sheriff shall forthwith deliver the same to the creditor, and if he doth not deliver the same upon demand, he shall (for every week he shall so retain them) forfeit one tenth part of the value of the goods or money by him levied, which shall be paid to the plaintiff.

SECT. LXIII.

That the sheriff that doth execution shall not take poundage for more than what is truly and actually levied, and shall not take any thing at all from the creditor, but shall levy his just fees upon the debtor.

SECT. LXIV.

That any who sueth forth process or writ of execution, may take the same directed to the sheriff and coroner, or either of them, by vertue whereof either of them, to whom the same is delivered, shall execute the same; and the said coroner is hereby enabled and required to do and act all things in execution of the same, under like fees and forfeitures as the sheriff ought to do, act, receive and forfeit by virtue of this present act.

SECT. LXV.

That the sheriff, under-sheriff, and coroner in the execution of any process of law, may in person break open any door and enter, in the day-time, if it be not open upon his demand.

SECT. LXVI.

That officers and ministers of justice may be known and obeyed, every sheriff, under-sheriff, and coroner, in the execution of his office, shall carry a white staff, every bailiff a white wand, every serjeant at mace a mace with the arms of the commonwealth on it, and every constable or person supplying that office shall carry a constable's staff with the commonwealth's arms on it, to be provided at the charge of every respective parish; and any person who shall knowingly assault (with violence) any such sheriff, under-sheriff, coroner, or other minister or officer of justice in the execution of his office, and shall be thereof convict, such person shall be committed to the house of correction, and shall be whipt and kept there at work seven years, or otherwise shall be fined at the discretion of the court where he shall be convicted, and this fine shall not be less than one hundred pounds for every offence; and the like punishment for any person who, being apprehended or arrested, shall make violent resistance or escape, or be assisting thereunto; and if in the aforesaid assault any weapon be used, or pistol or other gun presented against the aforesaid officers in the execution of their office, besides the former punishment, the party convict thereof shall also have his right-hand cut off; and if death ensue to such officer, by reason of any assault in the execution of his office, the party thereof convict shall suffer death without pardon, and his body be hung up in chains.

SECT. LXVII.

That any prisoner may be sued in the judicature to which the prison doth belong, and leaving a summons and copy of the declaration with the prisoner shall be a sufficient service whereon to proceed to judgment and execution; and if such prisoner doth not make defence within eight days after such summons served, and oath made thereof, then process of attachment shall issue; and where attachment is awarded against a prisoner, the keeper of the prison shall execute and return the same, as if it were a writ directed to him to have the body of such prisoner at the return thereof.

SECT. LXVIII.

That if judgment be obtained against any jailor or keeper of a prison, in any action for any negligent or wilful escape, such jailor or keeper of a prison shall pay one hundred pounds for every such offence, to the stock of the county where such judgment shall be obtained; and upon the desire of the party who hath such judgment, to the court where the same is obtained, besides the ordinary way of execution, the said court shall forthwith commit such jailor or keeper of prison to such other prison within this commonwealth as the party having judgment shall desire, where he shall remain close prisoner in execution and irons, until the said judgment and fine be satisfied; and such negligent or wilful escape shall be forfeiture and loss of the said office of jailor or keeper of a prison.

SECT. LXIX.

That in a replevin (instead of pledges) the plaintiff shall enter bond with sureties to the defendant, conditioned, that if he should not prosecute his suit, or shall discontinue the same, or be nonsuited, or that judgment be given against him therein, that then he will pay the condemnation, or else upon demand pay the defendant the true value

of the goods distrained, and valued by the officer, making delivery of the said goods; who shall also take the bond, and judge of the sufficiency of the security given, and deliver the said bond over to the defendant. But in all replevins of live goods, the party distraining shall be paid for the feeding of them before they be delivered.

SECT. LXX.

That hay or corn, in barn, rick, or mow, being upon the tenement out of which rent is due, may be distrained.

SECT. LXXI.

That within twenty-four hours after distress taken for rent due, notice shall be given to the owner, or left in writing at the house or lodging of the owner, or of the constable, headborough, tything-man, or like officer of the parish where such distress is made, who are hereby required to give him notice thereof.

SECT. LXXII.

That distresses taken for rent of live goods, preserved by the space of ten days and not replevied, and of dead goods not replevied in fifteen days, may be sold; which shall be done in this manner, (that is to say) the party distraining, or some on his behalf, shall acquaint the sheriff therewith, who shall, at the next sitting of the county judicature, cause twelve persons out of the jury book to be sworn to deal uprightly touching the appraisement of the said goods, and giving the parties who distrained them just satisfaction out of the value of them, according to their best skill and judgment; and the persons so sworn, shall thereupon make appraisement of the said goods, and likewise set down what is justly due to the party who distrained them, with his damages and full costs, and the charge of keeping the distresses; and the sheriff shall thereupon sell the goods, and by the price pay the party distraining his full debts, damages, costs, and charges so found by the jury, (if the value will extend thereto) and if there be a surplusage, restore it to the owner of the goods, all but his own fee, which he is to retain; and shall in the same judicature cause the appraisement and distribution of money to be entered; and this proceeding to be final, without further question to be had in law or equity.

SECT. LXXIII.

That if upon trial in a replevin upon a distress taken for rent, the plaintiff be nonsuited, or a verdict be found against him, the jury shall enquire of the whole rent then due, and express the same, and damages and full costs, and declare whether the plaintiff in replevin ought to pay the rent or no; and in case the jury find that he ought to pay the rent, then judgment shall be given for all the said rent, damages, and full costs, as in an action of debt, after verdict and like execution awarded; but if the jury shall find that the goods distrained and replevied, did not belong to the party who ought to pay the rent, then they shall enquire the true value of the goods distrained, and assess damages and full costs, and judgment shall be given for so much of the value of the said goods as the debt cometh to, with damages and costs, as in action of debt, and like execution awarded; and such judgment shall be final, without further question in law or equity.

SECT. LXXIV.

That he that hath right of entry into any messuage, lands, tenements, or hereditaments, may commence his suit and declare against the present tenant, possessor, or occupier, for a trespass, and withholding possession from him; and if the jury shall find the plaintiff's right, and withholding possession from him, or judgment pass by default, he shall have judgment for recovering the possession, as well as damage for the trespass, if the trespass only be found, and execution accordingly, and by virtue thereof shall hold the

possession until he be lawfully evicted; but such judgment and execution shall not be a bar to any better right: and the chargeable and uncertain course of sealing ejectment-leases, on purpose for recovering possession, is to be henceforth forborn and no more used.

SECT. LXXV.

That there shall be no advantage of survivorship between partners in trade or joint-tenants, unless it be so expressly declared in writing under their hands and seals; and for want of such express declaration, the estate in partnership or joint-tenancy shall go as in case of tenants in common.

SECT. LXXVI.

That where a married man purchaseth manors, lands, tenements, or hereditaments, and it be declared in the conveyance to him, that his wife shall not be dowable of the same, she shall not have any dower thereof; and a woman shall not be dowable of such estate of her husband as was in trust for another, nor shall an estate in trust for another be liable to any debts, judgments, statutes, or recognizances of the party trusted.

SECT. LXXVII.

That any person having a reversion in fee in lands, expecting immediately upon a term for years, and purchasing the said term, if it be declared in the deed of purchase that the term of years shall be kept on foot, the same shall not be drowned, but shall remain in him as a distinct estate; and a like declaration of keeping on foot any other estate for life, years, or otherwise, shall preserve the same from drowning in any greater estate in the hands of the same person, as fully to all intents and purposes as if the same were in two distinct persons.

SECT. LXXVIII.

That where any person having an inheritance in himself, or in trust, and a particular estate or trust in the same thing, and dieth without any disposition of the particular estate or trust, the same shall go along with the inheritance.

SECT. LXXIX.

That a colateral warranty, first descending from and after the passing of this act, shall not bind the heir on whom it descendeth, in any other manner then a lineal warranty with assets.

SECT. LXXX.

That where a lessee for the life of another dieth in the life of that other, the estate which heretofore was called a general occupancy, shall go to the heir of the lessee as an estate of special occupancy, and both the estates shall be liable to the debts of the ancestors, as if descended in fee-simple.

SECT. LXXXI.

That for want of heirs of the whole blood, lands in fee shall descend to the sister and other heir of the half blood, and shall not in such case escheat to the lord of the fee.

SECT. LXXXII.

That where waste shall be done by any party (who may not lawfully do it) an action of waste shall lie for the same by him who hath the inheritance, in which he shall recover his treble damages till trial, and full costs of suit, and the place wasted during the continuance of such estate only, as the party doing or wilfully suffering such waste had in the same; and such action of waste, as also a writ of dower, and a writ of partition between joint-tenants, tenants in common, and partners of any estate, shall and

may be brought, heard, and determined in any court of record for common-pleas or county judicature, for any lands, tenements, or hereditaments within the said county; and upon return of the writ in any such case, if the defendants appear not, they shall be called three times, and not then appearing, the party serving the summons shall be sworn touching the service thereof; and if it appear not duly served, a new summons shall issue; but if it appear duly served, and the declaration filed, the court shall then (as also where the party do appear and plead to issue) cause a jury to be sworn, and try the matter; and (if a verdict be found for the plaintiff) give judgment presently, and award execution thereupon: And the court shall appoint three or more of the said jurors to join with the sheriff or coroner in setting out the lands, tenements, or hereditaments so recovered, and a time and place of meeting shall be expressed in or indorsed on the writ of execution, for the sheriff and jurors to meet; and the sheriff and jurors shall, under their hands, return distinctly what lands, tenements, or hereditaments, and in what manner set out, and shall have five shillings a piece for their pains, unless the lands recovered be worth above forty pounds yearly, and there ten shillings a piece, (or more if the court find cause;) and every of them found negligent in their duty, according to this act, shall for every such neglect forfeit ten pounds, one half to the commonwealth, the other half to the party injured: And if there be any fraud in the prosecution of any such action, whereby any party concerned and not appearing (without any neglect or wilful default in him) shall suffer thereby, the court upon complaint and examination thereof finding the same true, may award a new trial, and make void the former judgment, and give costs to either party as there shall be cause; and if a plaintiff in any of the said actions doth not prosecute, or a verdict be found against him, the defendant is to have full costs; and if any party, besides the inheritor of the said lands, be damnified by waste, the party so damnified may have an action upon his case to recover his damages against the party doing the wrong.

Sect. LXXXIII.

That where a parent dieth intestate, seized of any estate of inheritance descendable by law or custom, to any one child, leaving any other child or children unadvanced, one third part of the said inheritance, after the parent's debts paid, shall remain to such child or children un-advanced and their heirs; and unless a child be married in the life of the parent with the parents consent, or land descend to such child from the parent by the custom, or be settled on him, or shall be declared by the parent in writing under his hand, or before two witnesses, to be advanced, or that he shall have no advancement, such child shall be taken to be a child unadvanced within this clause of the provision of this act.

Sect. LXXXIV.

That the names of all attorneys in the Upper-Bench and Common-Pleas shall forthwith, after the passing of this act, be written out of the rolls by the chief-clerk of either court, and certified to the clerk of the peace of the respective county where they inhabit; who shall at the second general session next after passing this act, deliver the said names to the grand jury then sworn, who shall, as part of their presentment, return the names of so many of them only as they approve fit to be continued attorneys in that county; and the clerk of the peace shall thereupon, without delay, return the names of the said attorneys so approved to the chief-clerk of the court whence he received the same. And no attorney shall be admitted to practise as attorney after the end of the said second general session, who shall not be approved by the grand jury of the county where he shall inhabit; and the grand juries of each respective county shall from time to time present to the judges of the courts of justice, the names of fit persons, inhabiting within their county, to be attorneys, as often they shall find the number of them to be too few, and the court shall allow such of them as shall be able; but

none are to be presented or allowed for attorneys, which have not been educated in some of the inns of Chancery to fit them for that employment.

SECT. LXXXV.

That no attorney shall be admitted to appear for any person until oath be made of the service of the summons, unless he make oath before the chief-clerk that he hath order from the client for whom he doth appear so to do, and produceth a warrant to the chief-clerk, under the hand and seal of the party that gave him direction; nor shall any attorney confess judgment in any action: And if any attorney appeareth without warrant from his client for whom he appears, or confesseth a judgement against his client, he shall suffer such punishment as one convict of perjury.

SECT. LXXXVI.

That all matters now determinable in the court of Exchequer, or other court of revenue, touching the revenue of the commonwealth, shall be heard and determined, both in law and equity, in the Upper-Bench; and there shall be like process and proceedings for the commonwealth as for other persons at the common law, and not other: And that the sheriff of each county shall levy all the uncertain revenue of the commonwealth, and other revenue, as he shall be commanded to levy by process; and that there be an officer continued, called *The Remembrancer of the Commonwealth*, who shall execute the office in person, and not by deputy, (except in case of sickness, and then by a person thereto deputed by the court,) and all fines, recognizances, and other things for the commonwealth shall be sent to him: And the said remembrancer shall issue out all process, and upon return file the same, and keep the vouchers and records touching the revenue; and there shall a comptroller, who shall enter all things touching the revenue in fair books, to be kept for that purpose: And there shall be two auditors for taking all accounts touching the revenue, in presence of the said comptroller, who shall also sign the account with the auditors; and all accounts of the revenue shall be declared in court, or before two or more of the judges of the said court: And there shall be a register, to enter all orders and decrees touching the revenue: And there shall be a person appointed for the receiving and paying out of all moneys, and such other officers, touching the said revenue, as the parliament shall appoint: And all the said officers, touching the said revenue, shall have their salary from the commonwealth, to be appointed by the parliament: And the court of Exchequer, and all other officers now belonging thereunto, being unnecessary and chargeable, shall be, and hereby are from and after
abolished and taken away.

SECT. LXXXVII.

That the county palatine of Durham, from and after
be abolished, and be called and accounted the county of Durham, and one of the counties of England. The county palatine of Lancaster, from and after be also abolished, and be accounted part of Lancashire. The royal franchise, or county palatine of Ely, from and after be also abolished, and be and be accounted part of Cambridgeshire. The county palatine of Chester, from and after be also abolished, and be and be accounted part of Cheshire, and taken into the same circuit with Staffordshire. And the aforesaid shires and county of Durham shall be under like rules, orders, and government, and have like judicatures, officers, and ministers of justice, elected in like manner, and to have like continuance, as other counties of this commonwealth: And from and after months next after the establishment of the said judicatures, the courts of the said counties palatine, and royal franchise, courts of quarter-

sessions of the peace, county-courts, sheriff's-turns, hundred-courts, and all other courts of particular liberties and franchises, now used, shall be abolished and taken away.

Provided always, That nothing in this act shall extend to the taking away of any monthly meeting, or petty-sessions in any county, or any of the court of sessions of the peace, oyer and terminer, and gaol-delivery, within or for the county of Middlesex, or of any court of the cities of London, York, Norwich, Exeter, Bristol, Chester, the town of Newcastle, Dover, and the Cinque-ports, courts of admiralty, courts leet, courts baron, or copy-hold courts; or to the taking away of the power of any borough or corporation, courts of record, in holding pleas against any member of the said borough or corporation; observing always a summons, with a copy of a declaration to the defendant, and oath made thereof, and filed with the declaration in court, before his person or goods be attached; delivering copies of pleadings without fees, and observing such process as is appointed in the courts of county judicature; and the commissioners of the great seal of England for the time being shall appoint a judge for the counties of Denbigh, Flint, and Montgomery, who shall there have power to do and act as the chief-justice of Chester might have done before this act; and that no presentment, indictment, or cause, commenced in any court or county judicature, sessions of the peace, corporation, or borough court, where it may be determined, shall be staid by prohibition, or any way remove thence, save only upon an appeal.

Sect. LXXXVIII.

That upon any action between party and party, or information upon any penal statute, none shall be attached or proceeded against by writ, or attachment of privilege, latitat, bill of Middlesex, or another process, or be outlawed, or any ways arrested by any serjeant, bailiff, messenger, or other, save only as this act prescribeth; and all outlawries in civil causes to stand reversed.

Sect. LXXXIX.

That no serjeants, or counsellors at law, or attorneys, shall be admitted to practise without taking the respective oaths following:

The Oath for Serjeants and Counsellors at Law.

"I will not wittingly advise, or consent to any thing to prejudice my client, by delay or otherwise in his cause, or advise, or consent to the putting in any plea or demurrer, with intent to delay any suit; I will not advise the commencing, prosecuting, or defending of any cause, which in my own judgment and conscience I do think unjust: I will to the best of my skill advise my client that which I judge to be the speediest course, and with least charge, to recover his right, and defend himself from wrong; and use my best endeavour for him, in the lawful way of my profession, for those ends: I will not knowingly misinform or deceive any court where I shall plead; but in all things behave myself as an honest and faithful counsellor ought to do, to the utmost of my understanding and conscience."

The Oath for Attorneys.

"I will not knowingly lay any action, save in the county where the cause of action riseth, or the defendant dwelleth, unless it be by order of court, or consent of the adverse party: I will not plead or advise, or consent to the pleading of any foreign or other dilatory plea, or put in any demurrer, with intent to delay the adverse party: I will not in any manner knowingly misinform the court, or delay, or consent to any thing which may prejudice my client by delay in any suit: I will not demand or re-

ceive from my client more than my just fees, or what I shall justly pay for him: I will not sue nor appear for any person without his direction: I will use no falshood or deceit, nor consent to any in this court; and if I know of any, will (as soon as I may) discover it to the court; and will in all things behave myself as an honest attorney ought to do, to my power."

A Table of Fees for the Proceedings at Common Law, to be hung up in every Court.

	l.	*s.*	*d.*
For every thing sealed with the seal of the court, to be paid to the keeper of the seal, to the use of the commonwealth - - - - -	0	0	6
For a serjeant or barrister at law, for a motion, trial, or attending a reference, or giving his opinion upon a case stated in writing - -	0	10	0
And for an argument upon a special verdict or demurrer - -	1	0	0
And the client is not to give, or the lawyer expect or receive, above the aforesaid fees; and no person is to take a fee for pleading or advice in law, who is not a serjeant or barrister at law: But these fees shall not extend to pleaders in corporations, where they use to take less fees; and there they are not to take greater fees than have been usually accustomed.			
To the chief clerks and under clerks, for writing, entering, and filing the summons, or for a summons to testify, and entry thereof, besides the seal - - - - - - - - -	0	1	0
The like for a writ of attachment and filing.			
For making and filing a writ of enquiry and damages - - - -	0	1	0
The like for making and filing a writ of execution.			
To the plaintiff's attorney for suing out the summons, drawing and engrossing the declaration, and one copy thereof, including his fee	0	6	6
The like to the defendant's attorney for appearing and putting in a plea, general or special, or demurrer, and one copy thereof.			
To the attorney, for his care and pains at the trial, or upon a writ of enquiry - - - - - - - - -	0	3	6
The like for suing forth and prosecuting the writ of execution.			
To the sheriff, for himself and such as he shall employ for executing a writ of attachment, and the return thereof - - - -	0	3	6
To the sheriff, chief clerk, or justice of peace, taking security -	0	0	6
For administering an oath - - - - - -	0	0	4
To the sheriff for summoning and returning the jury, in every cause tried	0	1	0
To the sheriff for inventorying, appraising, and securing goods, upon the writ of attachment, for the value of every twenty shillings -	0	0	1
To the sheriff for delivering possession upon a writ of execution, where no opposition is made - - - - -	0	10	0
Where forcible opposition is made, and the party convicted thereupon	10	0	0
Both these to be paid by the defendant, and the plaintiff nothing in either case.			
To the clerk, for writing the names of jurors, calling and swearing, reading the evidence, and recording the verdict or non-suit, in every cause tried, from the party for whom the verdict is given, or from the defendant where the plaintiff is nonsuit, or the defendant hath a verdict	0	2	0
To the clerk for every rule or order of court - - -	0	0	4

	l.	*s.*	*d.*
To the clerk for drawing up every special verdict - - -	0	1	0
Or two-pence for every twelve lines, with ten words in a line, at his election.			
To the chief clerk and under clerks for filing all proceedings, entering up the same, and judgment upon record - - - -	0	2	0
Or two-pence for every twelve lines, as before.			
To the chief clerk for filing and keeping all the records, to be paid upon the filing of the declaration - - - - -	0	1	0
For any search and liberty to read - - - - -	0	1	0
For acknowledging satisfaction on record - - -	0	1	0
For any copy of a record, for every twelve lines, having ten words therein	0	0	2
For exemplifying any thing upon record, for every twelve lines, having ten words therein, besides the seal - - - - -	0	0	3
For a writ of notice, called a *scire facias*, and the return, besides sixpence for the seal to the commonwealth in all courts - -	0	2	0
For a writ to have the body, called a *Habeas Corpus*, and the return, besides sixpence to the commonwealth for the seal in all courts -	0	2	0
For the answer in writing to any petition - - - - - -	0	2	6
To the cryer for every cause tried, to be paid by the party for whom the verdict is given, or from the defendant where the plaintiff is non-suit, or the defendant hath a verdict - - - - - - - -	0	1	0
Besides for every witness that appeareth and giveth evidence, by the party producing him - - - - - - - - - - - -	0	0	4
To the door keeper, and such as cleanse the court, upon every cause tried, to be paid as the cryer's fee - - - - - - - -	0	1	0
For writing any thing not within the former particular fees, for every twelve lines, with ten words in a line - - - - -	0	0	2

And if any persons aforesaid shall demand or receive any more or other fee than is before expressed (not being allowed by act of parliament,) or any thing for expedition, the same shall be adjudged extortion.

That no attorney shall receive any fees exceeding ten shillings in any one cause, above the fees hereby allowed him, and yet shall continue and use his best endeavour in the way of his profession, to bring that cause to a speedy end, or otherwise shall return all the fees he hath received in the cause; and if he offend herein, such offence shall be punished as extortion.

And be it further enacted, That any person not really worth ten pounds, and making oath of the same, is to be admitted to sue as a poor man in law or equity, without any fee; so always as before such admittance, some serjeant or counsellor at law, justice of peace, or other understanding person of integrity, known to the judge who admits him, do set down in writing under his hand the state of the case, and that he conceives the plaintiff hath just cause of suit; which certificate is to be filed with the chief clerk, without fee.

Touching Criminal Causes.

Be it enacted, That hereafter when the clerk of the court hath read over the presentment, indictment, or information to the party accused, instead of asking, "Guilty," or "Not guilty," he shall only ask, "What sayest thou to the charge now read against thee?" And if the party accused shall not thereupon confess the fact, or plead specially,

such party shall say, "I abide my lawful trial;" whereupon, without any further form, or questions of course to the prisoner, the court shall proceed to trial.

SECT. II.

That the judgment and punishment of pressing (commonly called *paine fort et dure,*) and all proceedings thereupon, shall be from henceforth abolished; and in case any person or persons shall hereafter stand mute, or not plead (whereby the said judgment should heretofore have been awarded against such prisoner,) in every such case, the party so standing mute, or refusing to plead, and all accessaries thereunto, as well before as after the facts, shall have such and the like judgments and proceedings, and shall suffer such pains, penalties, and forfeitures, to all intents and purposes, as if such parties had been convicted by verdict.

SECT. III.

That as well in matters of fact as law, where there shall any person plead as of counsel against the prisoner, in such case the prisoner may have counsel; and any credible witnesses produced by the prisoner shall hereafter deliver their testimonies upon oath.

SECT. IV.

That besides the punishment already by law inflicted upon wilful murtherers, it shall be part of the judgment pronounced against every such offender, that their right hand shall be cut off before their life be taken away.

SECT. V.

That where the jury shall find that the party indicted killed the person (for whose death such party stands indicted,) either in the just and necessary defence of their own or another's life, or that the death happened by misadventure, in such case, any party so found shall be clearly acquit, without incurring any penalties or forfeitures, or suing out any pardon of course; and nothing to be henceforth forfeited as a deodand.

SECT. VI.

That the usage and custom of demanding and allowing the book, commonly called *The Clergy*, and all proceedings thereupon, together with the power, office, and jurisdiction of the ordinary concerning the same, be from henceforth taken away and abolished.

SECT. VII.

That all and every person and persons, who shall be hereafter convicted as principals of man-slaughter, or as accessaries thereunto before the fact, shall have judgment of death; but such judgment shall work no corruption of blood, or forfeiture of lands or goods: And that every person convicted as accessary after such fact, shall only have judgment to forfeit all his goods and chattels, and suffer imprisonment for the space of five years, from the time of such conviction.

SECT. VIII.

That every person and persons who shall be hereafter convicted of felony, in being married to a second husband or wife, the former being living, shall have judgment to die, and suffer such pains of death, penalties, and forfeitures, as in cases of adultery. Provided nevertheless, That it shall and may be lawful to and for the court before whom any person shall be convicted of man-slaughter, either as principal or accessary

before the fact, in manner aforesaid; or for marrying a second husband or wife, the former being living as aforesaid (if the said court upon the evidence shall see cause,) to reprieve such persons from execution, for the space of six months; and in such case shall, within two months after such reprieve, make certificate (under their or any three of the hands of the justices before whom the trial was had) to the parliament, or, in the intervals thereof, to the council of state, of the reasons inducing the court thereunto, who may thereupon pardon the parties, or otherwise order therein as they shall see cause.

SECT. IX.

That in all cases of felonious stealing, where a man offending might heretofore have had the benefit of clergy, in such cases every person, whether man or woman, offending, convicted thereof, shall be burned in the left hand with the letter T, and be also sent to the house of correction, or work-house, there to continue at hard labour, until treble the value of the goods stolen be rendered to the party injured; which value shall be ascertained by the jury that shall try the fact at the time of the trial, except the court before whom the conviction shall be, shall upon some special cause think fit to order the continuance of the offender in the house of correction or work-house, for some longer time; in which case the said party shall continue therein accordingly, so as such time exceed not the space of three years. Provided, That unless there be some other lawful witness or witnesses against the prisoner, for proof of the fact, besides the party whose goods were stolen, or that the party confess the fact, no restitution of the treble value shall be in such cases awarded to the party: And the unlawful taking and carrying away of any thing fixed to the freehold, with a felonious intent, shall be judged a felonious stealing within this law, in such sort as if the thing carried away had been before severed from the freehold by some other.

SECT. X.

That in all cases (save in man-slaughter, marrying a second husband or wife, the former living, and in case of theft as aforesaid,) where a man offending or convicted might heretofore have had the benefit of clergy, in such cases any person convicted of any such offence, shall be burnt in the left hand with such mark as the court shall appoint, and stand in the pillory for the space of two hours at the least each time, upon two several days, in some public market place, in the middle of the day, with their offences legibly written upon their foreheads, and be committed to the house of correction or work-house, to be kept at hard labour for some space of time, not exceeding three years, as to the court where the trial is shall be thought fit; but shall not be released before he have given security for his good behaviour during his life.

SECT. XI.

That the judgment for women in any case to be burnt be taken away; and from henceforth, where heretofore such judgment should have been had, the judgment hereafter shall be, That such woman shall be drawn upon a hurdle to the place of execution, and then be executed by hanging, as in other cases.

SECT. XII.

That where any shall be hereafter convicted for clipping, washing, rounding, filing, diminishing, falsifying, or lightening the coin of this nation, or of foreign coin current in this nation, he and they so convicted shall have the same judgment, and undergo the same pains, penalties, and forfeitures, as a person convicted for counterfeiting the coin of this commonwealth should have done at the making hereof.

SECT. XIII.

That where any child, whether male or female, being of the age of fifteen years, or under, shall be by violence or otherwise unlawfully taken away without the consent of the parents, guardians, tutors, or next friends, to whom the custody and care of such child appertained, the persons so wilfully taking away such child or children, and all assisting, aiding, and abetting thereunto, shall have judgment of death. Provided always, that this act extend not to any person taking any child, male or female, really and indeed claiming them as a guardian.

SECT. XIV.

That if any shall hereafter send to, or resort to any person known by the name of a *cunning man*, or the like, for the discovery or finding out any goods lost or stolen, or to know who shall be their husbands or wives, or any other such like future contingencies, and all unlawful undertakers to make any such discoveries, who shall take upon them actually to do the same, being thereof convicted, shall suffer imprisonment in the house of correction or work-house, by the space of one year, and be kept to hard labour, and stand four market days in the pillory, six hours at a time, with a paper on the forehead declaring the offence.

SECT. XV.

That the judgment for the first offence for stealing a horse, mare, or gelding, picking a pocket, or cutting a purse secretly, shall not be death, but shall be to be burnt in the left hand, and to abide at hard labour in chains in the work-house, by the space of two years together, and be whipped once every month; and not to be released, until restitution made to the party injured treble the value, and whenever released, to have a collar of iron rivetted about the neck, to be seen; and if found without the said collar of iron, and convicted thereof, to suffer death.

SECT. XVI.

That any person convicted of wilful perjury, or subornation of perjury, committed after this act, shall stand in the pillory, and have both his ears cut off, and also have his nostrils slit and seared with a hot iron, so as they may remain as a perpetual note or mark of his falshood, and suffer six months imprisonment in the work-house, without enlargement, and be liable to satisfy the party damnified treble the value: And it is to be understood that a wilful false affidavit, or other wilful false oath, upon any answer in Chancery, or any other wilful false oath in any court of record, is perjury within this law.

SECT. XVII.

That every reprieve from execution by judges, who have power to give judgment of death, shall contain the reasons thereof, and be entered with the clerk of the court where judgment is given; and no reprieve to be of force longer than the next gaol-delivery, unless it be then continued in open court.

SECT. XVIII.

That where any prosecutor of any person for burglary, robbery, or any other felonious stealing, or any witness (that shall attend to give evidence to prove the fact against such offender) shall personally desire some allowance from the court where the trial shall be, towards their charges of attendance and prosecution, and shall make oath (if the court require them) that he or she is not worth (besides debts paid) the sum of one hundred pounds; in such case, as also for the charge of removing prisoners from one gaol

or county to another, the court where the trial is shall from time to time allow out of the county treasury, such sum and sums of money to every such person as to them shall be thought meet. Provided, That this act be not construed to alter or make void the law already in force for defraying the charge of conveying offenders to the gaol. Provided also, That the justices who shall grant any such allowance to a prosecutor have regard also to the treble value of the goods stolen, in case such prosecutor be in a possibility to receive the same.

SECT. XIX.

That every person (other then the party injured, or any of his family) by whose care and pains any person shall be hereafter apprehended and convicted of robbery, burglary, or murther, shall (in case such person personally desire the same before the court) have for reward for his good service done (by appointment of the court to be forthwith paid out of the county treasury) such sum as to the court shall be thought fit, (not exceeding ten pounds,) and where the apprehension shall be in one county, and the conviction in another county, such reward shall be paid in the county where the conviction shall be.

SECT. XX.

That all justices of the peace be careful upon the bringing any offenders before them, not only to take such examinations and informations as by law is required, but also, if it shall appear to the justice that the person apprehended for any burglary, robbery, or any felonious stealing, did commit the fact, such justice shall express the same in his warrant for the commitment, and also in such case require the keeper of the gaol (in case the prisoner cannot maintain himself) to set the party so committed to hard labour for his maintenance, until such party shall be delivered by due course of law; and if the gaoler shall not accordingly cause every such offender to be set at work, and be thereof duly convicted, he shall forfeit the sum of twenty pounds, to be paid in to the county treasury of the stock for the work-house.

SECT. XXI.

That such as kill themselves shall not forfeit any thing by reason thereof, unless at the time of the fact committed they be under restraint or prosecution for some capital offence.

SECT. XXII.

That the justices of the peace of each city and county within this nation, at some general sessions, shall from time to time make choice of some godly and painful preacher, living near every common gaol, who shall (in some fit place within the prison, to be appointed by the care of the said justices, and at such times as they shall think fit) instruct and pray with the said prisoners; which person so chosen shall, during the pleasure of the said justices, have such allowance for his pains therein, to be paid out of the county treasury, as to the said justices, or to the greater number of them present, shall be thought fit.

SECT. XXIII.

That no person indicted or prosecuted shall pay any fee at all, untill a verdict or judgment; and where any party is acquitted, he shall pay no fees at all: but the court may in criminal causes, and not capital, give costs, either to the prosecutor or party prosecuted, as shall be just, and award execution for the same; and the party which hath the costs shall pay the fees of the court.

SECT. XXIV.

Whereas by diverse statutes heretofore made, the crimes and offences therein mentioned, are ordained and enacted to be heard and determined before the justices of peace in their quarter sessions; that for time to come, such crimes and offences in London and Middlesex, may be as well heard and determined, and have the like and same proceedings in any general and open sessions of the peace to be held for London and Middlesex, as if the same had been heard and determined in any general quarter-sessions.

SECT. XXV.

That it shall not be lawful for any person, who shall have any goods feloniously taken away, to bring any civil action for the recovery thereof, or for damage for the same, before he have proceeded criminally, with effect, against the offenders; but he may bring his action after such effectual prosecution.

SECT. XXVI.

And be it further enacted, That as well this present act, as all laws in force against drunkenness, prophane swearing, cursing, and sabbath-breaking, as also an action heretofore made for preventing the destroying and murthering of bastard-children, shall once every year (that is to say) at the general session next ensuing the twenty-fourth of June yearly, be publickly read by the clerk of the court, upon pain, that for his omission therein, he shall forfeit the sum of ten pounds to the use of the county treasury.

A Table of Fees touching all Criminal Cases, to be hung up in every Court having Power in such Causes.

	l.	*s.*	*d*
For a recognizance out of court to appear and answer, and for certifying it,	0	1	6
For a warrant to appear and answer, or any warrant for the peace or good-behaviour - - - - - - - -	0	0	6
To the chief-clerk for drawing an indictment in cases which are not for felony - - - - - - - -	0	0	6
Or three-pence for every twelve lines, having ten words in a line, at his election.			
For a writ of restitution in forcible entry (besides six-pence to the commonwealth for the seal) - - - - - -	0	1	0
To the sheriff for execution upon that writ, to be paid by the party convicted of the forcible entry, if no opposition be made by him upon restitution - - - - - - - -	0	10	0
And if opposition be made, ten pounds, whereof five pounds to the use of the commonwealth - - - - - -	10	0	0
To the chief-clerk, or clerk of the peace, upon every conviction for felony or other capital crime, to be paid by the commonwealth out of the fines and forfeitures payable to them, in regard of his pains and care in making out process, taking and filing recognizances and examinations, drawing the indictment, arraigning the prisoner, entering his plea, swearing the jury, calling and swearing the witnesses, managing the evidence, reading the examinations, entering the verdict and judgment, making forth the warrant of execution, certifying forfeited recognizances and forfeitures into the court of revenue, making the writ of execution for stolen goods, and keeping records - - - - -	0	5	0

	l.	*s.*	*d.*
For swearing an informer, entering his oath, and recording his information upon a penal law - - - - - -	0	2	0
For a summons, or other process upon an information, to bring in a person accused to appear and answer in any criminal cause, besides sixpence to the commonwealth where the seal is affixed - - -	0	1	0
For entering every special plea - - - - -	0	1	0
Or three-pence for every twelve lines with ten words in each.			
To the chief-clerk for the proceedings in a cause not felonious, entering and recording judgment either for or against a party accused, and certifying or discharge of recognizance, to be paid by the party in default	0	5	0
To the cryer - - - - - - -	0	1	0
To the marshal - - - - - -	0	1	0
For an order or rule, four-pence, or two-pence for twelve lines as aforesaid	0	0	4
For entering the discharge from the peace or good-behaviour -	0	0	6
For pleading, entering, and allowing of pardons, to the clerk -	0	5	0
For an oath in cases not relating to felony - - -	0	0	4
For a writ to have the body, or remove a prisoner - -	0	1	0
For all copies of records, informations, indictments, and recognizances, for every twelve lines as aforesaid - - - -	0	0	2
To the chief clerk annually to be paid out of fines and forfeitures due to the commonwealth, for making process to remove prisoners, and for his pains and trouble in all cases on behalf of the commonwealth where no fee is allowed.			
To a gaoler, for a prisoner committed for any crime, to be paid at the discharge - - - - - - -	0	2	6

And be it further enacted, That if any officer, clerk of any court of justice, or minister of justice, jailor or keeper of any prison, shall demand or receive any more or other fee, than as before expressed, in reference to any criminal cause, not being allowed by act of parliament, or any thing for expedition, the same shall be judged extortion.

Touching Appeals.

Be it enacted by the authority of this present parliament, That all the judges in the courts of Chancery, Upper-Bench, and Common-Pleas, shall be eligible at the end of every third year, and shall receive an honourable salary from the commonwealth, to be appointed by the parliament: and if they shall directly or indirectly take fee or reward, other than what shall be appointed by the parliament, the same shall be punished as extortion, and the party convicted shall be disabled to hold any place of trust and profit in this commonwealth: and the court, where any person shall be questioned for such extortion, may give the prosecutor such ample recompence out of the offender's fine, or impose costs and damages upon a false and malicious prosecutor, as they shall find just.

And be it further enacted, That in all civil and criminal causes there may be an appeal from the said courts; and to that end, once every year, twenty persons shall be chosen by the parliament, or in the interval of parliament by the council of state, (whereof none to be pleading or practising lawyers, judges, or officers of any of the said courts) who shall be resident in or near London, and shall be judges of appeal for a year next ensuing, and until new be elected; and their names forthwith certified by the clerk of the parliament, or of the council of state, into the court of Chancery, and there entered into the register's-book; and if any of them die within the year, or be-

come unable to perform the service, others shall be chosen in their stead; but none to be chosen two years together without his consent.

That upon any unjust decree, judgment, or proceeding, in any of the said courts, the appeal shall be put in writing, and delivered at the register's office in Chancery, with all the grounds and reasons thereof, signed with the hand of the party appealing, or the hand of his counsellor or attorney, whereupon the register shall forthwith enter the same into the register-book, and the time when it was entered, and deliver back the original, signed with his hand, to the party bringing the same (taking therefore twelve-pence, or two-pence for every twelve lines, with ten words in a line, at his election, and no more:) And the party is then without delay to deliver a copy thereof to some judge of the court from whence he doth appeal, and another copy to the adverse party or his attorney; and if the party appealing be not relieved by that court, according to justice, touching the matter of his appeal, within seven days after the next sitting of the said court where the cause depended, he may repair to the register in Chancery, and depositing ten pounds with him (unless admitted to sue as a poor man, and in that case nothing) the said register shall forthwith shew the names of the twenty judges of appeal, written in several papers, unto the party appealing, his solicitor or attorney, and put them into a box, and suffer him to draw out seven of them by lot, and not by choice; and those seven shall be judges of that appeal: And thereupon the register shall draw and enter an order, and deliver a copy thereof signed with his hand, to the party appealing, his solicitor or attorney (taking twelve-pence for the same and no more) the title whereof shall express the day of the month when the names were so drawn out, and the names of the parties between whom, and the court where, and then shall order to the effect following:

"Upon the appeal of A. B. These are to require you, (naming the seven persons chosen judges of the appeal) to meet this day sevenight in the court of (naming the court where the cause depends) at two of the clock in the afternoon, and one of the judges of the respective courts thereto appointed by parliament, are also required to be present; and you are to hear and determine the said appeal without delay, and to do and act according to justice"

That one judge of each of the said three several courts, shall (by the rest of the judges of the said several courts, upon notice of the said order) be appointed to join with the said judges of appeal in hearing the said appeal, and two of the said three judges (not being a judge of the court where the cause did depend) to join also in determining the same; and what the said nine judges, or any five or more of them, shall determine touching the said appeal, shall be final: And the said judges of appeal, after their first sitting, shall proceed without delay to determine the said appeal; and shall, upon their first meeting together, take the oath which the judges usually take, which they may administer each to other; and shall give their judgment upon the said appeal only upon what is entered in the said register-book.

That where the appeal shall be for any cause before the settling the court of appeal, the said appeal shall be entered within twelve months next after the court of appeal is settled; and shall be for some cause of appeal arisen since the third day of November, 1638, or complained of since that time in court of record, or by bill or petition in parliament; and the time for appeals, as to any matter of injustice, after the settling the said court of appeal, shall be within twenty days next after the appellant hath notice of the injustice whereof he complains.

That if the appeal be adjudged causless, the said ten pounds deposited shall be paid to the commonwealth, otherwise repaid to the party; and the said judges of appeal shall give full costs to either party respectively, and damages as they shall find cause: And where the appeal is only from unjust proceedings before judgment or decree, and the appeal found just, they shall (besides relief upon the appeal) proceed to hear and deter-

mine the whole cause, according to the due proceedings of the court where the cause first depended, and give such final judgment and decrees in all causes before them as shall be just, and award execution accordingly; and to that end the register or clerk of the rules where such cause depended, shall attend the said judges of appeal from time to time, and enter their orders, rules, and decrees; and all the officers of the said respective courts, and ministers of justice, are to take care that execution be done upon the same, as in cases of judgments, orders, or decrees, in the said respective courts.

That if any drawn by lot to be judge of appeal, be sick or absent, or unable to sit (oath being made thereof) the party appellant, or his solicitor, may resort to the register of the Chancery, and inform him thereof, and shall draw another in his stead; and the register shall make like order for his joining with the other judges; and in case there be any wilful default in non-attendance, in any person appointed to hear appeals, such person shall forfeit ten pounds, and the register of the Chancery for every default twenty pounds, one half to the commonwealth, the other to the party appearing: And the said judges of appeal, or any five of them, may impose such fine upon the clerks, officers, and ministers of justice, as they shall find just, for any neglect or default contrary to this act.

That if the said judges of appeal, by reason of multiplicity of appeals, or other just cause, cannot attend the hearing and determining appeals at the precise times appointed by this act, yet the said judges of appeal so appointed, or any five or more of them, may meet at some other time, and hear and determine the same, and not be tyed up to the formalities of adjournments, or any legal niceties in the course of their proceedings; but shall observe the hearing of appeals in the order of time as they are entered with the register.

That after judgment in any criminal or civil causes upon any injustice in judgment or proceedings, there may be an appeal from the courts of county judicature, and the courts of record of London; so always as the appeal, and all the grounds and reasons thereof be put in writing under the hand of the party appealing, his council, or attorney, and delivered to the chief-clerk of the judicature or court, within twenty days next after judgement, who shall enter the same in the book of rules of the said court, (taking like fees for the same as the register of Chancery) and delivering the same back, signed with his hand and the time of entry; and if the party appealing be not relieved, touching the matter of his appeal in the said court, within seven days after the next sitting of the judicature or court for hearing and determining such causes, he may in all such criminal causes or indictments, or informations upon penal statutes, resort to the chief-clerk of the Upper-Bench; and in all civil causes, to the chief-clerk of the Common-Pleas; and leave with them a true copy of the said appeal, depositing ten pounds in their hands (unless admitted to sue as a poor man, and in such case nothing:) And the said chief-clerk shall acquaint the said court therewith, who are constituted judges of appeal in such cases, and shall thereupon appoint a certain time for hearing and determining the same, in presence of three or more of the judges of the said respective courts, (of which no judge to be any that had to do in the business appealed from) either in term or out of term, and (without any formality of legal proceedings) shall hear and finally determine the same according to justice, and shall award judgment and execution accordingly; and shall give at every appeal full costs to either party, and damages as shall be just; and if the appeal be causless, the ten pounds deposited shall be paid to the commonwealth; but if it be adjudged good, it shall be repaid to the party appealing. But the court where the cause first depended shall in no case stay their proceedings, untill they be so ordered by the judges of appeal, which is not to be done in any cause, until they find cause to give the appellant relief upon a full hearing of the appeal: and the judges of either of the said courts shall proceed with all expedition,

and not suffer any appeal to depend above forty days before them undetermined; and if they shall, the party appealing may appeal to the twenty judges of appeal, for delay in doing justice, and also upon the matter of his appeal, and have like relief, as in case of injustice in judgment or proceedings in either of the said courts. And after judgment in any city, corporation, or borough-court of record, other than London, a like appeal may be had to the county judicature within which such city, corporation, or borough doth lie, to be heard and determined in the general session, declaring the grounds of the appeal, and depositing ten pounds as aforesaid.

And lastly be it enacted, That where any person is admitted to sue as a poor man, and shall appeal, and the same shall be adjudged causless, he shall be sent to the work-house to continue there a month, and also be whipt.

Provided always, That nothing in this act touching appeals is to extend to capital causes; and that from and after , no writ of error, or bill of review, shall be admitted where an appeal lieth by this present act.

The Forms of Declarations which are to be Precedents.

MIDDLESEX.

A. B. complains of C. D. of , gent. for not paying him twenty pounds, according to his promise, being so much indebted to him the day of to his damage of

HERFORD.

R. S. complains of D. L. of , for not delivering him twenty quarters of malt, which the day of he promised for good considerations to deliver, to his damage of

LONDON.

I. B. complains of I. W. of , for not paying him ten pounds debt, and five pounds damages. which is due from him by bond, dated the day of , to his damage for not paying it of

SURREY.

I B. complains of W. A. of for breach of covenants in an indenture, dated the day of , in the year , between the said I. on the one part, and the said W. of the other part; whereby the said I. leased to the said W. an inn, called the Tun, in , in the said county, with the appurtenances, from the day of , before the date for years. Which breaches are for suffering the said messuage, of the price of , and a gate-house of the value of , parcel of the demised premises, to be uncovered, broken, and in decay for want of tiling, bricking, and plastering the walls, the day of , and from thence to the day of following; by reason whereof the studs and rafters of the said demised premises, by wind and rain, became rotten, and the said messuage and other the said demised premises became ruinous; and left the said messuage, and other the said demised premises, out of repair at the end of his term, and did not yield up the possession of the said messuage and demised premises to the said I. the day of , when the term ended: In all which particulars the said W. brake his covenants in the said indenture, to the damage of the said I. of (or for other breaches, according to the truth of the case.)

NORFOLK.

I. H. complains of A. B. of , for that the said A. B. at Norfolk sessions for the peace, the day of , did falsely and maliciously cause the said I. H. to be indicted for stealing a cloak, whereupon he was acquitted, to his damage of

NORFOLK.

E. F.. complains of A. B. and C. D. for that they, by conspiracy between them, did at Norfolk sessions for the peace, the third day of , falsely and maliciously cause him to be indicted for stealing a cloak, and thereupon to be detained in prison till the day of , when he was lawfully acquitted, to his damage of

NORTHAMPTON.

A. B. complains of the inhabitants of the hundred of M., for that he was robbed of the day of , in the day time, at a place called the , in the parish of , in the hundred of , by men unknown; and though he made hue-and-cry, and made oath before I. F., a justice of the peace of the said county, according to the statute, that he did not know the parties that robbed him, nor any of them; and forty days are past since the said robbery, yet the hundreds have not taken any of the said robbers, nor made him amends for the said robbery, to his damage of

WILTS.

E. P. complains of G. W. of for speaking these false and slanderous words to him the day of , to wit, (Thou art a thief) to his damage of

SOMERSET.

M. P. complains of G. W. for that whereas there was a treaty of marriage between her and one of , the said G. W. spoke these false and slanderous words of her the day of , (M. P. hath had a bastard) by which she lost her marriage, to her damage of

LONDON.

T. W. complains of R. W. that the said T. being a tradesman, the said R. the day of , spoke these false and slanderous words of him, to wit, (T. W. is a bankrupt), to his damage of

SOMERSET.

T. W. complains of R. W. of for forty pounds debt and damage, for not setting out his tythe of acres of wheat growing in the said parish in 165 , which belongs to the said T. being owner of the said tythes in that parish, which tythes were worth . And the treble value payable by the statute for not setting them out is , the non-payment whereof is to his damage of

SUFFOLK.

B. S. complains of A. B. of , for trespass done in a house in , wherein the said A. B. now dwells, and acres of land and acres of pasture, used with the said house the day of , continuing the trespass till the following, and withholding the possession of the said house, land, and pasture from him, to his damage of

ESSEX.

R. F. administrator of A. C., who died the day of , complains of D. E. of , for that whereas E. R. did the day of , lease to M. O. a house in , for years from the date of the said lease, at the yearly rent of , payable every by equal portions; and whereas the said term by mean assignments came to D. E. and the reversion of the said house by mean assignments came to the said A. C., there being for a year's rent due the day of , payable to the said R. F. by the said D. E. that he hath not paid it, to his damage of

RUTLAND.

A. B. demands of C. D. of E. and R. F. of G. that they make partition of the manor of M., in the parish of L., whereof one part belongeth to the said A. B. and his heirs, (or to the said A. B. for years) which are to end the day of , which will be in the year

LINCOLN.

A. B. complains of C. D. of E. for waste done by the said C. D. in a house in E. aforesaid, (in pulling the same down, or, &c.) which he holdeth for a term of years, (or which he holdeth in extent upon an execution) the inheritance whereof belongs to the said A. B. to his damage of , which being trebled, amounteth to the which the said A. B. requires from the said C. D. and also the place wasted.

CUMBERLAND.

M. B. the widow of C. D. of R. demands from E. F. her dower of the manor of F., which was the inheritance of the said C. D. of which she is dowable, who died seized of the said manor the day of , of the value of by the year, which the said E. F. withholds, to her damage of

(Or may leave out the words of *dying seized*, when he did not.)

And for any other declarations in other causes, the chief-clerk or judges of the court to direct such short forms as these, which are to be accounted sufficient in law.

Exam. by TRACY PAUNCEFOTE, Secr.

FINIS.

The Names of the Members of Parliament called to take upon them the Trust of the Government of this Commonwealth, which began on Monday the 4th of June, 1653, the Day appointed by the Letters of Summons from his Excellency the Lord General Cromwell, for the Meeting of these Gentlemen; with the several Transactions since that Time.

Printed in the year 1654.

There never can be a more lively picture of the parliament of 1653, than that which Hume has afforded us. After observing the various sects amongst whom Cromwell, after dissolution of the Long Parliament, sought by threats or cajoling to establish his own supremacy, he proceeds thus:

"As the millenarians had a great interest in the army, it was much more important for him to gain their confidence, and their size of understanding afforded him great facility in deceiving them. Of late years it had been so usual a topic of conversation to discourse of parliaments and councils and senates, and the soldiers themselves had been so much accustomed to enter into that spirit, that Cromwell thought it requisite to establish something which might bear the face of a commonwealth. He supposed that God in his providence had thrown the whole right, as well as power of government, into his hands; and without any more ceremony, by the advice of his council of officers, he sent summons to a hundred and twenty-eight persons of different towns and counties of England, to five of Scotland, to six of Ireland. He pretended, by his sole act and deed, to devolve upon these the whole authority of the state. This legislative power they were to exercise during fifteen months, and they were afterwards to choose the same number of persons, who might succeed them in that high and important office.

"There were great numbers at that time, who made it a principle always to adhere to any power which was uppermost, and to support the established government. This maxim is not peculiar to the people of that age; but what may be esteemed peculiar to them, is, that there prevailed a hypocritical phrase for expressing so prudential a conduct: it was called, A waiting upon Providence. When Providence, therefore, was so kind as to bestow on these men now assembled together the supreme authority, they must have been very ungrateful, if, in their turn, they had been wanting in complaisance towards her. They immediately voted themselves a parliament; and having their own consent, as well as that of Oliver Cromwell, for their legislative authority, they now proceeded very gravely to the exercise of it.

"In this notable assembly were some persons of the rank of gentlemen, but the far greater part were low mechanics; fifth monarchy men, anabaptists, independants, the very dregs of the fanatics. They began with seeking God by prayer: this office was performed by eight or ten *gifted* men of the assembly, and with so much success, that, according to the confession of all, they had never before, in any of their devotional exercises, enjoyed so much of the Holy Spirit as was then afforded to them. Their hearts were no doubt dilated when they considered the high dignity to which they supposed themselves exalted. They had been told by Cromwell, in his first discourse, that they never looked to see such a day when Christ should be so owned: they thought it, therefore, their duty to proceed to a thorough reformation, and to pave the way for the reign of the Redeemer, and for that great work, which it was expected the Lord was to bring forth among them."—HUME's *History of England, Lond.* 1797 8. *p.* 227.

It had been remarked as singular, that no list of this assembly was made public by authority during its sitting, and the natural inference is drawn in a letter of intelligence dated, 1st of August, 1653, "*Remarquant entre autres qu'on n'a point de liste de ceux qui sont le nouveau parlement, en*

signe qu'ils sont gens fort neufs et cy devant inconnus et obscurs." The same reason which prevented Cromwell from publishing their names, while he was desirous they should be held in some respect, may have led to his exposing them after their dissolution.

A Copy of the Letter from his Excellency the Lord General Cromwell, sent to the Members called to take upon them the Trust of the Government of this Common-wealth.

FORASMUCH as, upon the dissolution of the late parliament, it became necessary that the peace, safety, and government of this commonwealth should be provided for; and in order thereunto, divers persons fearing God, and of approved fidelity and honesty, are by myself, with the advice of my council of officers, nominated, to whom the charge and trust of so weighty affairs is to be committed. And having good assurance of your love to, and courage for God and the interest of his cause, and of the good people of this commonwealth; I, Oliver Cromwell, captain-general and commander in chief of all the armies and forces raised and to be raised within this commonwealth, do hereby summon and require you, being one of the persons nominated, personally to be and appear at the council chamber, commonly known or called by the name of the Council Chamber at Whitehall, within the city of Westminster, upon the fourth day of July next ensuing the date hereof, then and there to take upon you the said trust, unto which you are hereby called and appointed to serve as a member for the county of ————. And hereof you are not to fail. Given under my hand and seal the ———— day of June, 1653.

O. CROMWELL.

Monday, June 4, 1653.

This being the day appointed by the letters of summons from his excellency the Lord General Cromwell, for the meeting of those gentlemen that were called to the supreme authority, they met accordingly in the council-chamber, where being entered the room, above one hundred and twenty in number, and being sat round about the table, the lord general standing by the window opposite to the middle of the table, and having as many of the army officers as the room could well contain on his right-hand and on his left, his lordship made a very grave, christian, and seasonable speech and exhortation; wherein he briefly recounted the many great and wondrous mercies of God towards this nation, and the series of providence wherein the presence of God did wonderfully appear in carrying on this cause, and bringing affairs into the present condition, beyond all expectation; ascribing the glory of all to God alone.

He set forth also in particular the progress of affairs since the famous victory at Worcester, wherein that arch-enemy of this nation was wholly subdued. He likewise laid down the actings of the army thereupon, after divers applications to the parliament, and much being wanting, and forbearance, together with the grounds and necessity of their dissolving the said parliament, which his excellency declares to be for the preservation of this cause, and the interest of all honest men who have been engaged therein.

Moreover, he very amply held forth the clearness of the call given to the present members to take the supreme authority; and did from the scriptures exhort them to their duties, and encourage them therein, desiring that a tenderness might be used towards all godly and conscientious persons, of what judgment and under what form soever.

Which being ended, his lordship produced an instrument under his own hand and seal, whereby he did, with the advice of his officers, devolve and intrust the supreme

authority and government of this commonwealth into the hands of the persons then met, who, or any forty of them, are to be held and acknowledged the supreme authority of the nation, unto whom all persons within the same, and the territories thereunto belonging, are to yield obedience and subjection. And they are not to sit longer than the 3d of November, 1654. Three months before their dissolution they are to make choice of other persons to succeed them, who are not to sit longer than a twelve-month; but it is left to them to take care for a succession in government. Which instrument being delivered to the persons aforesaid, his lordship commended them to the grace of God.

This being done, his excellency and his officers withdrew; and the said persons so met, having the supreme authority put into their hands, after some short space, adjourned till the next morning eight o'clock, and appointed to meet in the old parliament house, there to seek God for direction in this great work, and for his presence and blessing therein. Hereupon, without doing any further business, they all departed.

The Names of the Members of Parliament which began June 4, 1653, with the respective Counties for which they serve.

Berks.
Samuel Dunch
Vincent Goddard
Thomas Wood

Bedford.
Nathaniel Taylor
Edward Cater

Buckingham.
George Fleetwood
George Baldwin

Cambridge.
John Sadler
Thomas French.
Robert Castle
Samuel Warner

Chester.
Robert Duckenfield
Henry Birkinhead

Four Northern Counties.
Charles Howard
Robert Fenwick
Henry Dawson
Henry Ogle

Cornwall.
Robert Bennet
Francis Langdon
Anthony Rous
John Bawden

Derby.
Jervas Bennet
Nathaniel Barton

Devon.
George Monk, one of the generals at sea
John Carew
Thomas Sanders
Christopher Martin
James Erisey
Francis Rous
Richard Sweet

Dorset.
William Sydenham
John Bingham

Essex.
Joachim Matthews
Henry Barington
John Brewster
Christopher Earl
Dudley Templer

Gloucester.
John Crofts
William Neast
Robert Holmes

Southampton.
Richard Norton
Richard Major
John Hildesley

Hertford.
Henry Lawrence
William Reeve

Hereford.
Wroth Rogers
John Herring

Huntington.
Edward Montague
Stephen Phesaunt

Kent.
Lord Viscount Lisle
Thomas Blount
William Kenrick
William Cullen
Andrew Broughton

Lancaster.
William West
John Sawrey
Robert Cunliff

Leicester.
Henry Danvers
Edward Smith
John Prat

Lincoln.
Sir William Brownlow
Richard Cust
Barnaby Bowtel
Humphrey Walcot
William Thompson

Middlesex.
Sir William Roberts
Augustine Wingfield
Arthur Squib

Monmouth.
Philip Jones

Northampton.
Sir Gilbert Pickering
Thomas Brook

Norfolk.
Robert Jeremy
Tobias Fecete
Ralph Wolmer
Henry King
William Burton

Nottingham.
John Odingsels
Edward Chid

Oxon.
Sir Charles Wolsley
William Draper
Dr Jonathan Goddard

Rutland.
Edward Horesman

Salop.
William Botterel
Thomas Baker

Stafford.
George Bellit
John Chetwood

Suffolk.
Jacob Caley
Francis Brewster
Robert Dunkon
John Clark
Edward Plumstead

Somerset.
Robert Blake, one of the generals at sea
John Pine
Dennis Hollister
Henry Henley

Surrey.
Samuel Hichland
Lawrence March

Sussex.
Anthony Stapeley
William Spence
Nathaniel Studely

Warwick.
John St Nicholas
Richard Lucy

Wilts.
Sir Anthony Ashley Cooper
Nicholas Green
Thomas Eyre

Worcester.
Richard Salway
John James

York.
George Lord Eyre
Walter Strickland
Francis Lassels
John Anlaby
Thomas Dickenson
Thomas St Nicholas
Roger Coats
Edward Gill

London.
Robert Tichborn
John Ireton
Samuel Moyer
John Langley
John Stone
Henry Barton
Praise-God Barbone[1]

Wales.
Bushy Mansel
James Philips
John Williams
Hugh Courtney
Richard Price
John Brown

Scotland.
Sir James Hope
Alexander Brody
John Swinton
William Lockhart
Alexander Jefferies

Ireland.
Sir Robert King
Colonel John Hewson
Colonel Henry Cromwell
Colonel John Clarke
Daniel Hutchinson
Vincent Gookyn

Called in by the Parliament since they sate.
Lord General Cromwell
Major General Lambert
Major General Harrison
Major General Desborough
Colonel Mat. Tomlinson

Council of State

The Lord General
Major General Desborough
Major General Harrison
Mr Major

[1] This was the celebrated Barebone, who gave name to this motley parliament. He was a leather-seller, and a zealous fanatic, and seemed to be equipped with a name devised, as it were, on purpose to distinguish so absurd a character. He is said to have had two brothers with Christian names of yet more formidable dimension. One was called *Christ came into the world to save Barebone;* the other, *If Christ had not died, thou hadst been damned, Barebone;* which last was popularly abridged into Damned Barebone. Upon the eve of the Restoration, and when Monk was already in London with his army, Praise-God Barebone, at the head of a mob of the very dregs of fanaticism, presented a petition to the Rump Parliament, pressing, with great acrimony, the utter extirpation of royalty, "as the inevitable destruction of all the godly in the land." This petition was so favourably received, that it is one of the circumstances chiefly founded upon in the stern expostulatory letter which Monk addressed to the parliament, and which announced to them their impending dissolution.

Colonel Sydenham
Sir Anthony Ashley Cooper
Alderman Tichbourn
Sir Charles Wolsley
Sir Gilbert Pickering
Mr Carew
Colonel Jones
Lord Viscount Lisle
Mr Lawrence
Colonel Montague
Mr Strickland
Captain Howard
The Lord Eyre
Sir William Roberts
Mr Sadler
Sir Robert King
Colonel Henry Cromwell
Dr Goddard
Colonel Barton
Sir William Brownlow
Captain Stone
Colonel George Fleetwood
Colonel James
Mr Anlaby
Mr Bennet
Colonel Rous
Colonel Bingham

The Commissioners Names for the High Court of Justice.[1]

John Lisle, one of the lords commissioners for the great seal of England
John Bradshaw, serjeant at law
Charles George Cucke, Esq.
Matthew Sheppard, Esq.
William Underwoed, alderman of London
John Hayes, Esq.
George Langham, Esq.
Maurice Thompson, Esq.
Richard Shute, Esq.
Mark Hilgesley, Esq.
Thomas Allen, alderman of London
Daniel Taylor, Esq.
Edmund Waring, Esq.
John Blackwell, jun. Esq.
Nicholas Juxon, Esq.
Roger Frith, Esq.
Nathaniel Whetham, Esq.
Edward Cresset, Esq.
Ralph Harrison, Esq.
Benjamin Valentine, Esq.
William Web, Esq.
Owen Row, Esq.
Thomas Andrews, alderman of London
John Hardwicke, Esq.
Richard Arnold, Esq.
Sir John Thorowgood, of Kensington, knight
Abraham Babington, Esq.
Richard Moor, Esq.
Edward Whaley, Esq.
William Goff, Esq.
John Okey, Esq.
Thomas Juxon, Esq.
Mark Coe, Esq.

An Act declaring what Offences shall be adjudged Treason.

Be it enacted by this present parliament, and by the authority of the same, That, if any person shall maliciously or advisedly publish, by writing, printing, or openly declaring, that the said government is tyrannical, usurped, or unlawful, or that the commons in parliament assembled are not the supreme authority of this nation, or shall plot, contrive, or endeavour to stir up or raise force against the present government,

[1] Cromwell employed his mock parliament as his play-thing to amuse the idle, but his High Court of Justice as his scourge to appal the contumacious. The title, first introduced for the trial and execution of the king, served long to distinguish those bloody and arbitrary tribunals, erected from time to time for the extirpation of the loyal nobility and gentry of the kingdom. The powers of this court seem to have been now revived for the trial of Colonel Gerhard, Mr Powel, and others accused of a plot against Cromwell.

or for the subversion or alteration of the same, and shall declare the same by any open deed, that then every such offence shall be taken, deemed, and adjudged, by authority of this parliament, to be high treason.

That if any person shall maliciously and advisedly plot or endeavour the subversion of the said keepers of the liberties of England, or the council of state, and the same shall declare by any open deed, or shall move any person or persons for the doing thereof, or stir up the people to rise against them, or either of them, they or either of their authorities, every such offence shall be taken, deemed, and declared to be high treason.

If any person, not being an officer, soldier, or member of the army, shall plot, contrive, or endeavour to stir up any mutiny in the said army, or withdraw any soldiers or officers from their obedience to their superior officers, or from the present government as aforesaid, or shall procure, invite, aid, or assist any foreigners or strangers to invade England or Ireland, or shall adhere to any forces raised by the enemies of the parliament, commonwealth, or keepers of the liberties of England, or if any person shall counterfeit the great seal of England for the time being, used and appointed by authority of parliament, every such offence shall be taken to be high treason, and also forfeit unto the use of the commonwealth all and singular his or their lands, tenements, and hereditaments, goods and chattels: Provided always, That no persons shall be indicted and arraigned for any of the offences mentioned in this act, unless such offenders shall be indicted or prosecuted for the same within one year after the offence committed. That if any person shall counterfeit the money of this commonwealth, or shall bring any false money into this land, counterfeit, or other like to the money of this commonwealth, knowing the money to be false, to merchandize or make payment, in deceit of the people of this nation; or if any person shall hereafter falsly forge and counterfeit any such kind of coin of gold or silver, as is not the proper coin of this commonwealth, and is or shall be current within this nation by consent of the parliament, or such as shall be by them authorized thereunto, or shall bring from the parts beyond the seas into this commonwealth, or into any the dominions of the same, any such false or counterfeit coin of money, being current within the same, as is above said, knowing the same to be false, to the intent to offer or make payment by merchandize or otherwise, or shall impair, diminish, falsify, clip, wash, round, file, scale, or lighten, for wicked lucre or gain's sake, any the proper moneys of this commonwealth, or of any other realm, allowed and suffered to be current, all such offences adjuged high treason, their counsellors, procurers, aiders, and abettors, being convicted, shall suffer pains of death. It shall not extend to, or be adjudged to make any corruption of blood to any of the heirs, or to make the wife to forfeit her dower, or her title, action, or interest in the same.—July 17th, 1649.

A Relation of the Mutiny on Tuesday the 23d of November, 1653, in the New Exchange, of the Portugal Ambassador's Followers, &c.[1]

This night was a great mutiny at the New Exchange in the Strand, such as hath scarce ever been the like. The business, upon the best information that I can have from those who were present in part of the business, and have conferred with others upon the whole, is this:

On Monday night (which was the night before) three of the Portugal ambassador's family, whereof his brother was one, being at the New Exchange, they talking in French,

[1] This relates to an exemplary piece of justice executed by Cromwell, and which served to throw a lustre upon his usurped government. The Portugueze nobleman guilty of the outrage here described was executed on Tower Hill.

spake of such discourse of transactions of some English affairs, which Colonel Gerhard,[1] Sir Gilbert Gerhard's brother, understanding the French tongue, hearing, told them very civilly, that they did not represent the stories they spake of right; whereupon one of the Portugals gave him the lie. Upon that they began to jostle, and all three fell upon Colonel Gerhard, and threw him down and got upon him; but though he be but a little man, yet he threw him off that was upon him, and so was bustling with him a good while. There were some gentlemen there, but knew not who it was they so assaulted, and so never meddled with them; and yet one of the Portugals with his dagger stabbed Colonel Gerhard in the shoulder, and hurt him sore: but afterwards Mr Anfrazer spake to the Portugals, that it was not civil nor handsome for so many to fall upon one, three to one being very unequal, and endeavoured to pull one of them off, and so to persuade them to cease, and thereby he came to see who it was they had assaulted; who finding it to be Colonel Gerhard, which he knew well, and seeing them still pursue their rage upon him, he drew to relieve him; and after some bustle the Portugals went away, one of them having a cut upon his cheek. And that night afterwards near twenty of their attendants came to the exchange, and would have quarrelled with any body; and some cuffing there was by some, but not much more that night, for it was late, and they returned home.

On Tuesday night, came about fifty of the Portugals again to the New Exchange, of which number were the ambassador's brother, and two Knights of Malta, and they were led on by a Portugal in buff, whom they called Captain, one well known to some in the exchange, and they had generally double arms, all or most part of them swords and pistols, and coats of mail or armour, some one thing, some another, to preserve their bodies from swords entering upon them.

They had also two or three coaches that brought ammunition, in which were hand-granadoes and bottles, and some little barrels of powder and bullets, and other necessaries, if occasion was. They had also some boats ready to attend them at the water-side, if occasion was for them also.

Thus they came with a resolution to fall upon every English gentleman they should find in or about the exchange; and entering in with this equipage, the people were exceedingly frightned. For first came in the captain in buff, who led them, and after him the Portugal ambassador's brother, and the Knights of Malta, and so the rest, all with drawn swords, and in so furious a posture, as if they intended to kill every body they met with that stood before them.

Hereupon the people fled into the shops in the exchange to shelter themselves, and all that did not so they fell upon, though no man gave them the least affront, yet they pistolled and cut, and wounded many.

Mr Greneway, a gentleman of Gray's-Inn, son to Lady Greneway, was there with his sister, and a gentlewoman whom he was to have married, who desired them two to stand up in a shop, where he saw them safe, and they would have had him to have staid with them, but he said he would only go see what was the matter; but he was no sooner parted from them, but immediately the word being given by the Portugal captain in buff, which was *sasa*, which was the word when they were to fall on. Without any affront offered towards them, one of them pistolled him, and shot him in the head, and he is dead of his wounds; and many others they have dangerously wounded. Colonel Mayo had twelve upon him at once, yet drew his sword and fought with them as long as he was able to hold his sword in his hand, which being cut, he was forced to let his

[1] A young gentleman of good family, who had been an ensign in the king's army. It is remarkable, that he did not again meet with Don Pantaleon de Sa until they both mounted the scaffold on Tower Hill, to which M. Gerhard was condemned for plotting in favour of the king. The Portugueze, according to Lord Clarendon, lost his head with much worse grace than his antagonist.

sword fall, and then they cut and wounded him in many places. Mr Thomas Howard, Mr Carter, and divers others, were wounded passing by.

The horse at the Meuse had taken alarm before they returned, and returning home, passing by the Meuse, some of the horse moving towards them, some of them discharged pistols towards the horse, and the rest run home to the ambassador's house; but the horse-guards took some of them, and carried them into the Meuse, and sent word thereof to the lord general; and a party of horse pursued them, and beset the ambassador's house.

And Commissary General Whalley sent in to the ambassador, acquainted him with this horrible attempt and bloody murder of his followers, and shewed him his men they had taken prisoners, and required the chief of the rest of them to be delivered into the hands of justice, which the ambassador was loth to do. But seeing he could not baffle them, to stop the course of justice in so horrible a bloody business as that had been, he delivered up his brother and one of the Knights of Malta, and some others, such as they had then information was chief, and promised to secure the rest to be forthcoming, any of them when they should be demanded. After which the ambassador made his address to the lord general, and chiefly for his brother; but his excellency told him that it did concern the public, and therefore his addresses must be to the parliament and council of state. It is such a horrible business that his excelleney would not meddle with him in it.[1]

The Portugals that are in custody are prisoners at James's, and the business is under examination before the council of state.

By the Council of State.

The council of state taking notice of the tumultuous and barbarous actings at the New Exchange in the Strand, in the county of Middlesex, upon the 21st and 22d of November last past, the same being accompanied with the drawing of swords, discharging of pistols, and such other high misdemeanors as are scarce to be paralleled by the actings of any persons living under the protection of a civil government, and which, in the effects thereof, produced not only a very great and notorious violation of the public peace, but also the murdering of one, and the assaulting, wounding, and affrightning of many other of the people of this nation, pursuing their ordinary callings and occasions. And for as much as the said exchange is a place of public resort and trade, the council have therefore thought it necessary hereby to declare their resentment of those proceedings, and their just displeasure against the same: and as they intend vigorously to prosecute the offenders, so, to the intent the like evils may be better prevented in time to come, they do hereby strictly require and charge, That no person or persons, of what quality soever, do presume, at the said exchange, or any other like public place, to occassion, encourage, or abet any tumultuous meetings, or hazard a breach of the civil peace, or drawing there, or in any other such place, any sword or other weapon, discharging, presenting, or bearing any gun or pistol, or firing of powder in grenadoes, or in any otherwise whatsoever: of which command, it will be expected that all persons whatsoever take notice, and demean themselves accordingly, upon peril of

[1] It is said, that when the ambassador complained of his house being beset by soldiers, and pleaded the immunities of his situation, Cromwell coolly replied, that if he stood on that punctilio, he would order the troops to be withdrawn, and leave the people of London to execute justice themselves. Don Pantaleon de Sa published a sort of vindication, in which he affected to represent the violent outrage of which he had been guilty as the effect of some imprudent zeal on the part of his followers, undirected or countenanced by him. It is published in the 3d volume of the Harleian Miscellany.

being reputed and dealt withall as disturbers of the public peace, whereof a very strict account shall be taken; and all justices of the peace, and other publick ministers, are required carefully to perform their duties in this behalf; as also to use their utmost endeavours to prevent and restrain all immodest and unhandsome demeanors of such as shall resort to the said exchange, that so no just cause of offence may be given to sober minds, nor any thing there acted dishonourable to religion or the nation.

Monday, December 12, 1653. *It being moved, That the sitting of this parliament was not for the peace of the Commonwealth, and that therefore it was requisite to deliver up unto the Lord General Cromwell the powers which they received from him, and seconded by several other members; and the Speaker, with many of the members departed to Whitehall, being the greater number, and did, by a writing under their hands, resign unto his excellency their said powers.*

Saturday, December 10. 1653. The parliament this day resumed the debate upon the report made from the committee of tithes, which is as follows:

1. That it be represented to the parliament as the best way for ejecting ignorant, prophane, and scandalous ministers, that commissioners be sent from hence into all the counties, divide into six circuits (besides London and Middlesex) three commisioners into each circuit, to join with four or six in every county (and each riding in Yorkshire to be as a county) and that in every county the said persons, or five of them, (two of the commissioners sent from hence being always present) be impowered to eject all ministers (of that county) that are not of good behaviour and holy in conversation, or that are not apt and able to teach, or in teaching hold not forth the faithfull word, or be not diligent, or labour not in the word and doctrine, or be greedy of filthy lucre: and be also impowered to settle godly and able persons to preach the gospel in all void places, and to unite two or three parishes together, so that none be above three miles from the public meeting place.

2. That it be presented to the parliament, That Dr Arrowsmith, Colonel Goff, Major Hains, Mr John Owen, Mr Thomas Goodwyn, Mr Ben of Dorchester, Mr Fairclough the elder, Mr Lockier, Mr Caryl, Mr Stephen Marshall, Mr Worthington, Mr Turner, Mr Tomes, Mr Martin Holbech, Mr Cradocke, Mr Jessey, Mr Arthur Barnardiston, Mr William Greenhill, Colonel Campfield, Mr Dyke, Mr Stalham, may be sent commissioners, by three in a circuit, for ejecting and settling ministers, according to the rules prescribed.

3. That all such as are or shall be approved for public preachers of the gospel in the public meeting-places, shall have and enjoy the maintenance already settled by law, and such other encouragement as the parliament hath already appointed, or hereafter shall appoint: and that where any scruple payment of tithes, the three next justices of the peace, or two of them, shall, upon complaints, call the parties concerned before them, and by the oaths of witnesses, shall duly apportion the value of the said tithes to be paid either in money or land, by them to be set out according to the said value, to be held and enjoyed by him that was to have the said tithes; and in case such approved value be not duly paid or enjoyed, according to the order of the said justices, the tithes shall be paid in kind, and shall be recovered in any court of record.

4. That upon hearing and considering what hath been offered to the committee touching propriety in tithes, of incumbents, rectors, possessors of donatives, or propriate tithes, it is the opinion of this committee, and resolved to be reported to the parliament, that the said persons have a legal propriety in tithes.

The house having spent several days in debate of the whole report, and especially of the first of the four parts thereof; and the question being put, That this house doth agree with the first clause of the report, it passed in the negative.

Monday, December 12th, 1653. It being moved in the house this day, That the sitting of this parliament any longer, as now constituted, will not be for the good of the commonwealth, and therefore it was requisite to deliver up unto the Lord General Cromwell the powers which they received from him; and that motion being seconded by several other members, the house rose, and the speaker, with many of the members of the house, departed out of the house to Whitehall, where they, being the greatet number of the members sitting in parliament, did, by a writing under their hands, resign to his excellency their said powers, and Mr Speaker, attended with the members, did present the same to his excellency accordingly.

His excellency the Lord General Cromwell and his council of officers met this day, at which meeting, after a most excellent, wise, gracious, and pious speech made by his excellency, full of religion towards God, prudence towards the state, and love and care towards this distracted nation, some things were transacted in order to a settlement and sweet composure. The union of all that fear the Lord is much desired, that so we may sit down comfortably under a safe and well-grounded peace.

The late parliament having, upon their dissolution, delivered up the power which they received from his excellency at their first sitting, by a writing under their hands and seals, his excellency thereupon called a council of officers, and advised with other persons of interest in the nation, how this great burden of governing England, Scotland, and Ireland, with the armies therein and navies at sea, should be borne, and by whom; who after several days seeking of God and advising therein, it was resolved that a council of godly, able, and discreet persons should be named, consisting of twenty-one, and that his excellency should be chosen lord protector of the three nations. And on Friday last his excellency came down to Westminster, and was installed Lord Protector of the three nations, the manner whereof was thus:

December 18th. His Excellency the Lord General Cromwell, about one of the clock in the afternoon, went from Whitehall to Westminster in his coach, foot soldiers being on both sides the streets all along, and in the palace at Westminster were many soldiers, both horse and foot. His excellency was attended by the lords commissioners of the great seal of England, the judges and barons of the several benches in their robes, and after them the council of the commonwealth; and the lord mayor and aldermen of the city of London, in their scarlet gowns, with the recorder and town clerk, all in their coaches, who passed before his excellency; and last of all came his excellency, in a black suit and cloak in his coach, with his life guard and divers bare before him; and many of the chief officers of the army, with their cloaks and swords, and hats on, passed on foot before and about his coach.

In this equipage, his excellency and attendants came to Westminster-hall, where was a chair placed in the high court of Chancery, where being come, the lords commissioners of the great seal of England stood next to the chair, the one on the one side, and the other on the other side, and next to the Lord Commissioner Lisle, who stood on the left hand of the chair, stood his excellency (all being bare, and his excellency also,) on every side of the chair; in the next place stood all the judges and barons on both sides; and the lord mayor and aldermen on the right side of the court, next unto the judges and the council, and the chief officers of the army on the left side of the court.

The rules for this new government were then read, which consist of many particulars, expressed in an instrument.

The instrument is large, which took up above half an hour's reading, and was read by Mr Jesop, one of the secretaries of the council; after which the Lord Commissioner Lisle read a parchment in the nature of an oath, to engage his excellency to perform on his part, according to the government before mentioned; during which time his excellency held up his hand, and having heard it read, accepted thereof, and subscribed thereto in the face of the court.

Then the lords commissioners of the great seal, and the judges, &c. invited him to take possession of the chair, as Lord Protector of England, Scotland, and Ireland, which he did, and sate down with his head covered, the court continuing all bare.

The lords commissioners delivered up to his highness the purse and seals, and the Lord Mayor of London his sword, which were presently delivered to them back again by his highness, and then after a salute the court rose.

First came the aldermen and council before his highness, from the court to Westminster-hall gate, where the coaches were; after them the judges; then came the commissioners of the great seal, one of them bearing the purse and seals; and before his highness came the life-guard; then four serjeants of arms with their maces, one being the mace of the city of London, the second of the Chancery, the third of the council, and the other of the parliament, borne by the sword-bearer of London, Serjeant Middleton, Serjeant Dendy, and Serjeant Berkehead; and the Lord Mayor of the city of London went before his highness with the sword, and the officers of the army about his person; and in the palace they took coach at the hall-gate, and returned to Whitehall in the same equipage they went. The lord mayor rid bare with the sword in the boot of the coach with his highness; and there were great acclamations and shoutings all along the streets as they passed.

His Highness the Lord Protector being returned to Whitehall, he went with his attendants to the banquetting-house, where they had an exhortation made by Mr Lockier, chaplain to his highness; which being ended, they were dismissed with three vollies of shot by the soldiers, between four and five o'clock at night.

The title of the instrument aforesaid is thus:

The Government of the Commonwealth of England, Scotland, and Ireland.

The Substance of the said Instrument is,

I. That the supreme legislative power of England, Scotland, and Ireland, shall be and reside in one single person, assisted with a council of thirteen at least, and twenty-one at most, and the commons assembled in parliament.

II. That this single person shall be called the Lord Protector of the Commonwealth of England, Scotland, and Ireland.

III. That there be constant triennial parliaments, and the first to begin the third of September, 1654.

IV. That the parliament shall have power of making all laws, saving some cases relating to the guards of the commonwealth and matters of religion (for which there is particular provision made in the instrument containing the government.)

V. That all bills that pass in parliament shall be offered to the Lord Protector for his consent; which if he do not assent unto within twenty days, shall notwithstanding pass into and become a law, provided they contain nothing contrary to the matters expressed in the said instrument.

VI. That the Lord Protector is to be elective, and not hereditary, and to be chosen by the council immediately upon the death of the Lord Protector.

November 19th, 1653. His Highness the Lord Protector met with those named of his council, in the council-chamber at Whitehall, it being the place where the council of state used to sit, and several things were transacted in order to a settlement; and this following proclamation was ordered to be printed and published on the Monday following.

December 21st, 1653. His Highness the Lord Protector and the council, being thirteen in number, met in the council-chamber at Whitehall, where his highness, in a sweet speech to them, pressed the council to act for God, and the peace and good of the nations; and particularly recommended to them to consider and relieve the distresses of the poor and oppressed.

This day this proclamation following was published at Westminster, and in the city of London, by divers serjeants at arms, with their maces, the lord mayor and aldermen being present at the Exchange, &c.

By the Council, a Proclamation.

"Whereas the late parliament dissolving themselves, and resigning their powers and authorities, the government of the commonwealth of England, Scotland, and Ireland, by a Lord Protector and successive triennial parliaments is now established; and whereas Oliver Cromwell, captain-general of all the forces of this commonwealth, is declared Lord Protector of the said nations, and hath accepted thereof: We have therefore thought it necessary (as we hereby do) to make publication of the premises, and strictly to charge and command all and every person and persons, of what quality and condition soever, in any of the three nations, to take notice hereof, and to conform and submit themselves to the government so established: And all sheriffs, mayors, bailiffs, and other public ministers and officers, whom this may concern, are required to cause this proclamation to be forthwith published in their respective counties, cities, corporations, and market-towns, to the end none may have cause to pretend ignorance in this behalf.

"Given at Whitehall, the sixteenth day of December, 1653."

December 21st. His Highness the Lord Protector sat with the council, which are thirteen in number, in the council-chamber at Whitehall, and several things were transacted in order to a quiet and peaceable settlement of the three nations.

The Names of the Council.

Mr Lawrence, the president
Lord Viscount Lisle
Major General Lambert
Major General Desborow
Major General Skippon
Colonel Jones
Colonel Sydenham
Sir Gilbert Pickering
Sir Charles Woolsley
Sir Anthony Ashley Cooper
Mr Rouse
Mr Strickland
Mr Major.

A Declaration for Alteration of several Names and Forms heretofore used in Courts, &c.

Oliver, Lord Protector of the commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging, having the exercise of the chief magistracy, and the administration of government within the said commonwealth, invested and established in his highness, assisted with a council, who have power until the meeting of the next parliament (which is to be on the third of September next) to make laws and ordinances for the peace and welfare of these nations, where it shall be necessary, which shall be binding and in force, until order shall be taken in parliament concerning the same.

And the said Lord Protector finding it to be most necessary, that some speedy and effectual course be taken for settling the names and forms to be used in patents, commissions, and proceedings in courts of justice, the said Lord Protector, by and with the advice and consent of his said council, and in pursuance of and according to the power and trust reposed in him and them, doth declare and ordain, and be it by the authority aforesaid declared and ordained, that in all courts of law, justice, or equity, and in all writs, grants, patents, commissions, indictments, informations, suits, returns of writs, and in all fines, recoveries, exemplifications, recognizances, process, and proceedings of law, justice, or equity, within the said commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging, instead of the name, stile, title, and test (of the keepers of the liberty of England, by authority of parliament,) heretofore used, that from and after the six and twentieth day of December, 1653, the name, stile, title, and test of the Lord Protector for the time being of the commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging, shall be used, and no other, and the date shall be in the year of our Lord, and no other.

And that all duties, profits, penalties, issues, fines, amerciaments, and forfeitures whatsoever, which heretofore were sued for in the name of the keepers of the liberty of England, by authority of parliament, shall from and after the said 26th of December be prosecuted, sued forth, and recovered in the said name of the Lord Protector for the time being of the commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging, and no other. And in all or any of the proceedings aforesaid, where the words were, the jurors of the commonwealth, or the jurors for the keepers of the liberty of England, by authority of parliament, do say or present, from and after the 26th of December, it shall be, the jurors for the Lord Protector of the commonwealth of England, Scotland, and Ireland, &c. do say, or present, and no other, &c.

And it is further ordained, by the authority aforesaid, That in all oaths to be given to any grand jury or petty jury, or to or for any witnesses to give in evidence to any such jury or juries, and in all other oaths wherein the name of keepers of the liberty, &c. was wont to be used, the same shall be given in the name of the Lord Protector, instead of the name of the said keepers, &c. any law, usage, or custom to the contrary in any wise notwithstanding.

And it is lastly ordained, by the authority aforesaid, That such forms and course of proceedings, as were heretofore used in the name and time of the keepers of the liberty, &c. in causes criminal or civil, and of which no alteration is made in this ordinance, shall stand and continue to be so used and observed as formerly; and that all indictments, presentments, inquisitions, commissions, and captions, made with such alterations, additions, or omissions, as aforesaid, or with such other omissions, additions, or

alterations, as shall be proper and necessary for making good of indictments, presentments, commissions, captions, and inquisitions, and supplying the sense and meaning thereof, according to the present government of this commonwealth under the Lord Protector, as aforesaid, shall stand, and be good and effectual in law, to all intents and purposes, as if the same had been particularly herein named, any law, custom, or usage to the contrary in any wise notwithstanding.

The Oath taken by his Highness Oliver Cromwell, Lord Protector.

Whereas the major part of the last parliament (judging that their sitting any longer, as then constituted, would not be for the good of this commonwealth) did dissolve the same, and by a writing under their hands, dated the twelfth day of this instant December, resigned unto me their powers and authorities; and whereas it was necessary thereupon, that some speedy course should be taken for the settlement of these nations upon such a basis and foundation, as, by the blessing of God, might be lasting, secure property, and answer those great ends of religion and liberty so long contended for; and upon full and mature consideration had of the form of government hereunto annexed, being satisfied that the same, through divine assistance, may answer the ends aforementioned; and having also been desired and advised, as well by several persons of interest and fidelity in this commonwealth, as the officers of the army, to take upon me the protection and government of these nations, in the manner expressed in the said form of government, I have accepted thereof, and do hereby declare my acceptance accordingly: And do promise, in the presence of God, that I will not violate and infringe the matters and things contained therein, but, to my power, observe the same, and cause them to be observed; and shall, in all other things, to the best of my understanding, govern these nations according to the laws, statutes, and customs, seeking their peace, and causing justice and law to be equally administred.

O. Cromwell.

Oliver Cromwell, Captain General of all the forces of this commonwealth, and now declared Lord Protector thereof, did this 16th day of December, 1653, sign this writing, and solemnly promise, as is therein contained, in presence of the lords commissioners of the great seal of England, who administred the same oath, and of the lord mayor and aldermen of the city of London, divers of the judges of the land, the officers of state and army, and many other persons of quality.

The Government of the Commonwealth of England, Scotland, and Ireland.

1. That the supreme legislative authority of the commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging, shall be and reside in one person, and the people assembled in parliament; the stile of which person shall be Lord Protector of the Commonwealth of England, Scotland, and Ireland.

2. That the exercise of the chief magistracy, and administration of the government over the said countries and dominions, and the people thereof, shall be in the Lord Protector, assigned with a council, the number whereof shall not exceed twenty-one, nor be less than thirteen.

3. That all writs, processes, commissions, patents, grants, and other things, which

now run in the name and stile of the keepers of the liberty of England, by authority of parliament, shall run in the name and stile of the Lord Protector, from whom, for the future, shall be derived all magistracy and honours in these three nations; and shall have the power of pardons (except in case of murder and treason) and benefit of all forfeitures for the public use; and shall govern the said countries and dominions in all things by the advice of the council, and according to these presents and the laws.

4. That the Lord Protector, the parliament sitting, shall dispose and order the militia and forces, both by sea and land, for the peace and good of the three nations, by consent of parliament: And that the Lord Protector, with the advice and consent of the major part of the council, shall dispose and order the militia for the ends aforesaid in the intervals of parliament.

5. That the Lord Protector, by the advice aforesaid, shall direct, in all things concerning the keeping and holding of a good correspondency with foreign kings, princes, and states, and also with the consent of the major part of the council, have the power of war and peace.

6. That the laws shall not be altered, suspended, abrogated, or repealed, nor any new law made, nor any tax, charge, or imposition, laid upon the people, but by common consent in parliament, save only as is expressed in the thirtieth article.

7. That there shall be a parliament summoned to meet at Westminster upon the third day of September, 1654, and that successively a parliament shall be summoned once in every third year, to be accounted from the dissolution of the preceding parliament.

8. That neither the parliament to be next summoned, nor any successive parliaments, shall, during the time of five months, to be accounted from the day of their first meeting, be adjourned, prorogued, or dissolved, without their own consent.

9. That as well the next, as all other successive parliaments, shall be summoned and elected in manner hereafter expressed: that is to say, the persons to be chosen within England, Wales, the Isles of Jersey and Guernsey, and the town of Berwick upon Tweed, to sit and serve in parliament, shall be, and not exceed, the number of four hundred. The persons to be chosen within Scotland to sit and serve in parliament shall be, and not exceed, the number of thirty. And the persons to be chosen to sit in parliament for Ireland, shall be, and not exceed, the number of thirty.

10. That the persons to be elected to sit in parliament, from time to time, for the several counties of England, Wales, the Isles of Jersey and Guernsey, and the town of Berwick upon Tweed, and all places within the same respectively, shall be according to the proportions and numbers hereafter expressed; that is to say,

For the town of Bedford 1. County of Bedford 5. Abington 1. Reading 1. County of Berks 5. Buckingham 1. Aylesbury 1. Wiccomb 1. County of Bucks 5. Cambridge 1. University of Cambridge 1. Ely 2. County of Cambridge 4. Chester 1. County of Chester 4. Launceston 1. Truro 1. Penrin 1. Eastlow and Westlow 1. County of Cornwall 8. Carlisle 1. County of Cumberland 2. Derby 1. County of Derby 4. Exeter 2. Plymouth 2. Dartmouth, Clifton, and Hardnesse 1. Totness 1. Barnstable 1. Tiverton 1. Honyton 1. County of Devon 11. Dorchester 1. Weymouth and Melcomb-Regis 1. Lyme-Regis 1. Pool 1. County of Dorset 6. Durham 1. County of Durham 2. York 2. Kingston upon Hull 1. Beverley 1. Scarborough 1. Richmond 1. Leeds 1. Hallifax 1. County of York, West Riding, 6. East Riding 4. North Riding 4. Maldon 1. Colchester 2. County of Essex 13. Gloucester 2. Tewksbury 1. Cirencester 1. County of Gloucester, except the said city, 5. Hereford 1. Lempster 1. County of Hereford 4. St Alban 1. Hertford 1. County of Hertford 5. Huntington 1. County of Huntington 3. Canterbury 2. Rochester 1. Maidston 1. Dover 1. Sandwich 1. Queen-

borough 1. County of Kent 11. Preston in Anderness 1. Lancaster 1. Liverpool 1. Manchester 1. County of Lancaster 4. Leicester 2. County of Leicester 4. Lincoln 2. Boston 1. Grantham 1. Stamford 1. Grimsby 1. County of Lincoln 10. Westminster 2. County of Middlesex 4. City of London 6. County of Monmouth 3. Norwich 2. Lynn-Regis 2. Yarmouth 2. County of Norfolk 10. Peterborough 1. Northampton 1. County of Northampton 6. Nottingham 2. County of Nottingham 4. Newcastle upon Tyne 1. Berwick 1. County of Northumberland 3. Oxford 1. University of Oxford 1. Woodstock 1. County of Oxford 5. County of Rutland 2. Shrewsbury 2. Bridgnorth 1. Ludlow 1. County of Salop 4. Litchfield 1. Stafford 1. Newcastle on the Line 1. County of Stafford 3. Taunton 2. Bath 1. Wells 1. Bridgwater 1. County of Somerset 11. City of Bristol 2. Winchester 1. Southampton 1. Portsmouth 1. Isle of Wight 2. Andover 1. County of Southampton 8. Ipswich 2. Borough of Bury St Edmonds 2. Dunwich 1. Sudbury 1. County of Suffolk 10. Southwark 2. Guilford 1. Rygate 1. County of Surrey 6. Chichester 1. Lewes 1. East-Greenstead 1. Arundel 1. Rye 1. County of Sussex 9. County of Westmoreland 2. Coventry 2. Warwick 1. County of Warwick 4. Worcester 2. County of Worcester 5. Sarum 2. Marlborough 1. Devizes 1. County of Wilts 10. County of Brecon 2. County of Cardigan 2. County of Cærmarthen 2. County of Cærnarvon 2. County of Denbigh 2. County of Flint 2. Town of Cardiffe 1. County of Glamorgan 2. County of Merioneth 1. County of Montgomery 2. Haverford-West 1. County of Pembrook 2. County of Radnor 2.

The distribution of the persons to be chosen for Scotland and Ireland shall be according to such proportions and numbers as shall be agreed upon and declared by the Lord Protector, and the major part of the council, before the sending forth writs of summons for the next parliament, &c.

11. That the summons to parliament shall be by writ under the great seal of England, directed to the sheriffs of the several and respective counties, with such alteration as may suit with the present government, to be made by the Lord Protector and his council, which the chancellor, keeper, or commissioners of the great seal, shall issue and send abroad by warrant from the Lord Protector. If the Lord Protector shall not give warrant for issuing of writs of summons for the next parliament before the first day of June, 1654, or for the triennial parliaments before the first day of August in every third year, to be accounted as aforesaid, that then the chancellor, keeper, or commissioners of the great seal, for the time being, shall, without any warrant or direction, within seven days after the said first day of June, 1654, seal, issue, and send abroad writs of summons, &c.

12. That at the day and place of elections, the sheriff of each county, and the said mayors, sheriffs, bailiffs, and other head officers within their cities, towns, boroughs, and places respectively, shall take view of the said elections, and shall make return into the Chancery within twenty days after the said elections, &c., wherein shall be contained, That the persons elected shall not have power to alter the government, as it is hereby settled in one single person and a parliament.

13. That the sheriff, who shall wittingly and willingly make any false return, or neglect his duty, shall incur the penalty of two thousand marks.

14. That all and every person and persons, who have aided, advised, assisted, or abetted in any war against the parliament, since the first day of January, 1641, (unless they have been since the service of the parliament, and given signal testimony of their good affection thereunto) shall be disabled and be uncapable to be elected, or to give any vote in the election of any members to serve in the next parliament, or in the three succeeding triennial parliaments.

15. That all such who have advised, assisted, or abetted the rebellion of Ireland, shall be disabled and uncapable for ever to be elected, or to give any vote in the election of any member to serve in parliament; as also all such who do or shall profess the Roman catholic religion

16. That all votes and elections given or made contrary, or not according to these qualifications, shall be null and void: And if any person, who is hereby made uncapable, shall give his vote for election of members to serve in parliament, such person shall lose and forfeit one full year's value of his real estate, and one full third part of his personal estate.

17. That the persons who shall be elected to serve in parliament, shall be such, and no other than such, as are persons of known integrity, fearing God, and of good conversation, and being of the age of one and twenty years.

18. That all and every person and persons, seized or possessed to his own use, of any estate, real or personal, to the value of 200*l.* and not within the aforesaid exceptions, shall be capable to elect members to serve in parliament for counties.

19. That the chancellor, keeper, or commissioners of the great seal, shall be sworn before they enter into their offices, truly and faithfully to issue forth and send abroad writs of summons to parliaments at the times and in the manner before expressed: and in case of neglect or failure to issue and send abroad writs accordingly, he or they shall, for every such offence, be guilty of high treason, and suffer the pains and penalties thereof.

20. That in case writs be not issued out, as is before expressed, but that there be a neglect therein, fifteen days after the time wherein the same ought to be issued out by the chancellor, keeper, or commissioners of the great seal, that then the parliament shall, as often as such failure shall happen, assemble and be held at Westminster, in the usual place, at the time prefixed, &c

21 That the clerk, called The Clerk of Commonwealth, in Chancery, for the time being, and all others who shall afterwards execute that office, to whom the returns shall be made, shall for the next parliament, and the two succeeding triennial parliaments, the next day after such return, certify the names of the several persons so returned, and of the places for which he and they were chosen respectively, unto the council, who shall peruse the said returns, and examine whether the persons so elected and returned be such as is agreeable to the qualifications, and not disabled to be elected; and that every person and persons being so duly elected, and being approved of by the major part of the council to be persons not disabled, but qualified as aforesaid, shall be esteemed a member of parliament and be admitted to sit in parliament, and not otherwise.

22. That the persons chosen and assembled in manner aforesaid, or any sixty of them, shall be and be deemed the parliament of England, Scotland, and Ireland, and the supreme legislative power to be and reside in the Lord Protector and such parliament, &c.

23. That the Lord Protector, with the advice of the major part of the council, shall, at any other time than is before expressed, when the necessities of the state shall require it, summon parliaments in manner before expressed, which shall not be adjourned, prorogued, or dissolved without their own consent, during the first three months of their sitting: and in case of future war with any foreign state, a parliament shall be forthwith summoned for their advice concerning the same.

24. That all bills agreed unto by the parliament shall be presented to the Lord Protector for his consent; and in case he shall not give his consent thereto within twenty days after they shall be presented to him, or give satisfaction to the parliament within the time limited, that then, upon declaration of the parliament, that the Lord Protector hath not consented nor given satisfaction, such bills shall pass into and become

laws, although he shall not give his consent thereunto; provided such bills contain nothing in them contrary to the matters contained in these presents.

25. That Philip, Lord Viscount Lisle, Charles Fleetwood, Esq., John Lambert, Esq., Sir Gilbert Pickering, Bart., Sir Charles Woolsley, Bart., Sir Anthony Ashley Cooper, Bart., Edward Montagu, Esq, John Desborow, Esq., Walter Strickland, Esq., Henry Laurence, Esq., William Sydenham, Esq., Philip Jones, Esq., Richard Major, Esq., Francis Rous, Esq., Philip Skippon, Esq., or any seven of them, shall be a council for the purposes expressed in this writing; and upon the death or other removal of any of them, the parliament shall nominate six persons of ability, integrity, and fearing God, for every one that is dead or removed, out of which the major part of the council shall elect two, and present them to the Lord Protector, of which he shall elect one, &c.

26. That the Lord Protector, and the major part of the council aforesaid, may, at any time before the meeting of the next parliament, add to the council such persons as they shall think fit, provided the number of the council be not made thereby to exceed one and twenty, and the quorum to be proportioned accordingly by the Lord Protector and the major part of the council.

27. That a constant yearly revenue shall be raised, settled, and established, for maintaining of ten thousand horse and dragoons, and twenty thousand foot, in England, Scotland, and Ireland, for the defence and security thereof, and also for a convenient number of ships for guarding the seas; besides two hundred thousand pounds per annum for defraying the other necessary charges for administration of justice, and other expences of the government; which revenue shall be raised by the customs, and such other ways and means as shall be agreed upon by the Lord Protector and the council, and shall not be taken away or diminished, nor the way agreed upon for raising the same altered, but by the consent of the Lord Protector and the parliament.

28. That the said yearly revenue shall be paid into the public treasury, and shall be issued out for the uses aforesaid.

29. That in case there shall not be cause hereafter to keep up so great a defence at land or sea, but that there be an abatement made thereof, the money which shall be saved thereby shall remain in bank for the public service, and not be employed to any other use but by consent of parliament; or, in the intervals of parliament, by the Lord Protector and major part of the council.

30. That the raising of money for defraying the charge of present extraordinary forces both at land and sea, in respect of the present wars, shall be by consent in parliament, and not otherwise; save only that the Lord Protector, with the consent of the major part of the council, for preventing the disorders and dangers which may otherwise fall out both at sea and land, shall have power, until the meeting of the first parliament, to raise money for the purposes aforesaid, and also to make laws and ordinances for the peace and welfare of these nations, where it shall be necessary, which shall be binding and in force until order shall be taken in parliament concerning the same.

31. That the lands, tenements, rents, royalties, jurisdictions, and hereditaments which remain yet unsold or undisposed of by act or ordinance of parliament, belonging to the commonwealth (except the forests and chaces, and the honours and manors belonging to the same; the lands of the rebels in Ireland, lying in the four counties of Dublin, Cork, Kildare, and Katerlaugh, the lands forfeited by the people of Scotland in the late wars, and also the lands of papists and delinquents in England who have not yet compounded) shall be vested in the Lord Protector, to hold to him and his successors, Lords Protectors of these nations, and shall not be aliened but by consent in parliament. And all debts, fines, issues, amerciaments, penalties, and profits, certain and casual, due to the keepers of the liberties of England, by authority of parliament, shall be due to the Lord Protector, and be payable upon his public receipt, and shall be recovered and prosecuted in his name.

32. That the office of the Lord Protector over these nations shall be elective and not hereditary; and upon the death of the Lord Protector, another fit person shall be forthwith elected to succeed him in the government, which election shall be by the council, &c.; provided that none of the children of the late king, nor any of his line or family, be elected to be Lord Protector, or other chief magistrate, over these nations, or any the dominions thereto belonging. And until the aforesaid election be past, the council shall take care of the government, administer in all things as fully as the Lord Protector, or the Lord Protector and council are enabled to do.

33. That Oliver Cromwell, Captain General of the forces of England, Scotland, and Ireland, shall be, and is hereby declared to be Lord Protector of the commonwealth of England, Scotland, and Ireland, and the dominions thereunto belonging, for his life.

34. That the chancellor, keeper, or commissioners of the great seal, the treasurer, admiral, chief governors of Ireland and Scotland, and the chief justices of both the benches, shall be chosen by the approbation of parliament, and in the intervals of parliament, by the approbation of the major part of the council, to be afterwards approved by the parliament.

35. That the Christian religion contained in the scriptures be held forth and recommended as the public profession of these nations; and that as soon as may be, a provision less subject to scruple and contention, and more certain than the present, be made for the encouragement and maintenance of able and painfull teachers for instructing the people, and for discovery and confutation of error, heresy, and whatever is contrary to sound doctrine; and that until such provision be made, the present maintenance shall not be taken away nor impeached.

36. That to the public profession held forth, none shall be compelled by penalties or otherwise, but that endeavours be used to win them by sound doctrine and the example of a good conversation.

37. That such as profess faith in God by Jesus Christ (though differing in judgment from the doctrine, worship, or discipline publickly held forth) shall not be restrained from, but shall be protected in the profession of the faith and exercise of their religion, so as they abuse not this liberty to the civil injury of others, and to the actual disturbance of the public peace on their parts, provided this liberty be not extended to popery nor prelacy, nor to such as, under the profession of Christ, hold forth and practise licentiousness.

38. That all laws, statutes, ordinances, and clauses in any law, statute, or ordinance to the contrary of the aforesaid liberty, shall be esteemed null and void.

39. That the acts and ordinances of parliament, made for the sale or other disposition of the lands, rents, and hereditaments of the late king, queen, and prince, of archbishops, bishops, &c. deans and chapters, the lands of delinquents and forest lands, or any of them, or of any other lands, tenements, rents, and hereditaments belonging to the commonwealth, shall no way be impeached or made invalid, but shall remain good and firm; and that the securities given by act and ordinance of parliament for any sum or sums of money by any of the said lands, the excise, or by any other public revenue; and also the securities given by the public faith of the nation, and the engagements of the public faith for the satisfaction of debts and damages, shall not be made void and invalid upon any pretence whatsoever, but remain firm and good.

40. That the articles given to or made with the enemy, and afterwards confirmed by parliament, shall be performed and made good to the persons concerned therein. And that such appeals as were depending in the last parliament, for relief concerning bills of sale of delinquents estates, may be heard and determined the next parliament, any thing in this writing or otherwise to the contrary notwithstanding.

41. That every successive Lord Protector over these nations shall take and subscribe a solemn oath in the presence of the council, and such others as they shall call to them,

that he will seek the peace, quiet, and welfare of these nations, cause law and justice to be equally administered, and that he will not violate or infringe the matters and things contained in this writing; and in all other things will, to his power, and to the best of his understanding, govern these nations according to the laws, statutes, and customs.

42. That each person of the council shall, before they enter upon their trust, take and subscribe an oath, that they will be true and faithfull to their trust, according to the best of their knowledge; and that in the election of every successive Lord Protector, they shall proceed therein impartially, and do nothing therein for any promise, fear, favour, or reward.

An exact Relation of the Proceedings and Transactions of the late Parliament, their Beginning and Ending; with a brief Account of their Expence, of the Time of their Sessions, and the Acts that were made by them, who were dissolved December 12, 1653. *As likewise of Four Great Votes, viz.* 1. *For abolishing the Court of Chancery.* 2. *For a new Model of the Law.* 3. *For taking away the Power of Patrons to make Presentations.* 4. *That innocent Negative Vote of not agreeing with the Report of the Committee for Tithes. And an Account of some Reasons of those Votes: with a brief Apology, in Way of Vindication, of those Gentlemen that appeared for the Votes, from the great Out-cry made against them.*

By L. D. a Member of the late Parliament.[1]

MATTH. v. 11. Blessed are ye when men revile you, and persecute you, and speak all manner of evil of you falsely for my name's sake; rejoice and be exceeding glad, for great is your reward in heaven.

Printed in the year 1654.

No circumstance tends more clearly to illustrate the genius of the English nation, than the extreme difficulty which Cromwell experienced in his attempts to arrange the subordinate departments of his government. Notwithstanding his having possessed himself of the supreme power, he found it impossible to assemble any body of men under the name of a parliament, however cautiously selected, that did not immediately begin to question the authority of the person by whom they were convoked. Barebone's parliament was selected chiefly from the dregs of fanaticism, and consisted, besides the devoted partizans of Cromwell, only of persons whose ignorance and enthusiasm rendered them alike liable to imposition: yet even this motley body felt the injustice of Cromwell's domination. Although summoned in his name and authority, they began to pretend a direct commission from the Lord, and gave Cromwell as little satisfaction as their predecessors, the Long Parliament. Neither was it probably the intention of this able statesman, that the radical reform with which they threatened the church and the law should be actually carried into effect: His intention was to frighten the presbyterians and the lawyers into submission, and not to adopt those furious measures which must have thrown the country into inextricable con-

[1] It is remarkable that there is no name in the list of Barebone's parliament, published in the preceding tracts, the initials of which correspond with these letters.

fusion. Meantime this mock parliament became divided into two fierce parties, the one consisting of the adherents of Cromwell, the other of Levellers, anabaptists, and fifth-monarchymen, headed by Harrison. Ludlow has given the following account of their disputes, and of the mode in which they were terminated :—

" The perfidious Cromwell having forgot his most solemn professions and former vows, as well as the blood and treasure that had been spent in the contest, thought it high time to take off the mask, and resolved to sacrifice all our victories and deliverances to his pride and ambition, under the colour of taking upon him the office as it were of high constable, in order to keep the peace of the nation, and to restrain men from cutting one another's throats. One difficulty yet remained to obstruct his design, and that was the convention which he had assembled and invested with power, as well as earnestly solicited to reform the law, and reduce the clergy to a more evangelical constitution; and having sufficiently alarmed those interests, and shewn them their danger from the convention, he informs them farther, that they cannot be ignorant of the confusion that all things are brought into by the immoderate zeal of those in authority, and to what extremities matters might be reduced if permitted to go on, possibly to the utter extirpation of law and gospel from amongst us; and therefore advised that they might join their interests to his in order to prevent this inundation. His proposition was readily embraced by the corrupt part of the lawyers and clergy, and so he became their protector, and they the humble supporters of his tyranny. But, that his usurpation might seem less horrid, he so contrived it by his instruments, that some of the convention must openly manifest their disapprobation of their proceedings, and, under divers specious pretences, put a period to their sitting. To this end it was agreed by Mr House, chairman of that assembly, and the rest of Cromwell's junto, to meet earlier in the house than was usual, which was done accordingly on the 12th of December, 1653; hoping by surprize to obtain a vote for their dissolution. Being met, Col Sydenham, Sir Charles Wolsely, and others, according to their instructions, bitterly inveighed against the transactions of the convention, and particularly charged them with a design to destroy the army by not making a sufficient and timely provision for their pay. They alledged, that though they had voted them a sum of money, yet having resolved to raise it by a pound rate, it would take up so much time to bring it in, that the army must either starve for want, or oppress the country by free quarters. *A second ground of their invectives was taken from a motion made, that the great officers of the army should serve without pay for one year. They accused them also of endeavouring to destroy the clergy, the law, and the property of the subject*; instancing in their denying a right of presentation to the patrons of ecclesiastical benefices. In general they had not a frame of mind to do justice, which they would have made out by their not relieving Sir John Stawell when he made his application to them. Thus they endeavoured to cajole the clergy, lawyers, cavaliers, and all interests, except that which they should have had most regard to.

" They thought to have prevented any debate about their design by meeting so early in the morning, but they were deceived, and enough found in the house to answer their objections. To that concerning the army, it was said, that the pound-rate was found to be the most equal way of raising money, and therefore resolved upon by them; not at all doubting that it would come in soon enough for the soldiers' supply; that they thought it reasonable and just that the great officers in the army, who were possessed of plentiful estates and had received all their arrears, should abate somewhat of their superfluities, and serve for a little time freely, as well as those who were employed in civil affairs, whose labour and hazard was as great, and both equally concerned in the public good; especially, considering how much this conduct would contribute to the ease and satisfaction of the people, who could not be ignorant that there were now no pressing occasions of charge or danger, the enemy being every where entirely subdued. To what had been done in order to a reformation of the law and clergy, it was answered, That as they conceived there was great need of it, so they had been told that they were called together principally for that end, and that if they had done any thing too much therein, the gentlemen who blamed them for it were very unfit so to do, having themselves been the men that pressed them continually to go much farther than they had done. To the objection concerning presentations, they said, That the method used therein seemed to them *too unreasonable to be continued*; it being in effect to give a power to the greatest of the parish, who were not always the best, to prescribe what religion they pleased to the parishioners, by presenting a person, however unfit for that office, to be their minister. Lastly, In answer to the charge of denying right to Sir John Stawell, it was answered, That the consideration of that case was before them, and that they would not fail to act as his case deserved. The debate thus spun out, the house began to fill, so that Cromwell's party, despairing to carry their design by vote, broke off in an abrupt man-

ner, saying, That was not a time to debate, but to do something that might prevent those inconveniences which they pretended did threaten them. Then Mr Rouse, who was of the plot, descending from his chair, went out of the house, and, with the rest of the cabal, repaired to Whitehall, where they subscribed a writing taking notice of the power with which the army had intrusted them, and of the sense they had of their own inability to bring any thing to perfection for the good and settlement of the nation; and that therefore they resigned that power into the hands of Cromwell, from whom they had received it."—Ludlow's *Memoirs, II.* 32.

The following tract is a vindication of this short-lived assembly, whose qualities and proceedings are thus ironically summed up by a cavalier: "I own our new parliament to be a chosen company of as godly paynful men as are in the world, yet in all their consultations in the house they differ as much, or rather more, than any hath done before, and in particular in the businesses of tithes and impropriated law, and the arraignment of Free-born John [Lilburne.] The house hath been several times divided on these three last, and though (next to prayer to God) they have been the chief things handled, yet there is none of them ever finished, which makes most wise men believe we must in the end be forced to entreat the General to take all into his own care."—Thurloe's *State Papers, vol. I. p.* 387.

To the Reader.

Had not great blasphemy, reproach, and scorn been offered every where unto the holy name of God, his truth, his ways, his servants, by evil men, to the great grief of many fearing God, the following relation and discourse had never seen the light: The particular persons loaded with great reproach and scandal could, in regard of themselves have been contented to have borne all patiently with silence, and left the clearing of their innocency to the most righteous God. It is no new thing in the world for good men to be reproached for well doing, and to have no other reward for endeavouring to do their country service and labouring to take off their heavy oppressions and grievances, then to be counted evil-doers What is generally reported is as easily believed and taken for truth, though it be never so false, great lightness and vanity attending persons as is too evident. That one part of the house would have destroyed all the ministry, the good as well as the bad, (passes for current) when, as they were only against that old, corrupt, unequal, burthensome, and debate-making way, of their maintenance by tithes; in which way, beside other things, many a good soul hath only 20 or 30*l.* per annum to keep him and his alive, and others of less desert have 3 or 400*l.* per annum, or more; they thinking some more equal and less burthensome way might be found out and provided, and that their wives and children might have had allowance for their subsistance also when they were dead. Many also were against their standing on that old popish foot of account as now they do, as a part of the old hierarchy, judging it reason, that as archbishops and bishops, deans and prebends, &c. were removed as antichristian, so parsons, vicars, curates, rectors, donatives, and incumbents (strangers to the gospel) should be taken away also, being of the same stamp; and that all faithful teachers and preachers of the truth and gospel should, by law, stand upon a more gospel account, and their outward interest secured unto them accordingly, a short bill being by them offered for that purpose, but refused; whether this amounteth to the destroying the godly ministry, or whether they were their enemies, or rather their friends in it, they may please to consider. Reader! if thou thinkest that thou art come to Canaan, the land of rest, and that there is attained unto the full end aimed at and intended by almighty God, in answer of all those mighty works and wonders (near unto miracles) that he hath wrought in these lands; if thou thinkest there is already the harvest of all that treasure spent, and blood spilt in the late wars, then rejoice and be glad: but if thou judgest God intended greater and more high things than yet thou hast seen, in way of removing wickedness and oppression, and advancing justice and righteousness,

then believe, and wait and pray; so adviseth he that is a well-wisher to the interest of the Lord Christ, the welfare of the saints, and the prosperity of the commonwealth of England.

L. D.

The parliament that sate so long, and had so many changes and alterations, and yet was preserved and continued, was a council that God did highly honour, in making of them instruments of very great things, many of them being very good things as to the freedom and profit of the people; among which the change of the government from kingly to that of a commonwealth may worthily be mentioned, as not of the least, but of the greatest, both to religion's interest and the civil benefit of all good men.

But long sitting contracted dulness, and a kind of indisposition to go on any further to perfect the work which divine Providence had carried them on in wonderfully, many of them minding more the greatening of themselves, rather than the lightening of the wronged, and relieving the oppressed people, and performing their promises to them; so not proceeding to perfect the work of justice and freedom so happily begun and carried on by them, as instruments in the hand of God, they became low in the hearts and esteem of good people; and divine Providence so ordering of it (without which nothing cometh to pass) they were dissolved.

And upon an high account for godliness, and the love of the truth and cause of God, and the interest of his people, others were called together out of the countries and cities respectively, who assembling at the place and time appointed, after a large speech made unto them concerning the ground of dissolving the former council and calling of this, there was delivered unto them an instrument in parchment under seal, delivering the whole power of the nation or commonwealth into their hands, to take care of and to govern for their good. It is very observable, that of all that were so chosen and summoned to appear for the end aforesaid, being one hundred and forty persons, there were but two that refused the call and work, so unanimous a concurrence was there found as to the service; though they knew well their call was not according to ancient formality and the way of the nation.[1]

There seemed to be two reasons wherein there was satisfaction:

First, That divine Providence had cast it on them, without their seeking in the least.

Secondly, The necessity, as the case of the commonwealth stood, of having some to act and carry on affairs in way of government, till there might be an attainer to a better way of settlement, by the choice of the good people of this nation, which was not to be denied to be their just right and dearly purchased liberty.

It was great satisfaction and encouragement to some that their names had been presented as to that service, by the churches and other godly persons; and withal, because they were to undergo the trouble but one year, or little more, and so long they were willing to serve their country freely to their best abilities, looking for no reward.

The 4th of July, 1653, those thus assembled and impowered, did adjourn themselves from Whitehall to the parliament house, to meet the next morning at eight of the clock, and then to begin with seeking God by prayer; which accordingly they did, and the service was performed by the members amongst themselves, eight or ten speaking in prayer to God, and some briefly from the word, much of the presence of Christ and of his spirit appearing that day, to the great gladding of the hearts of many; some affirming they never enjoyed so much of the spirit and presence of Christ in any of the meetings

[1] "It was much wondered at by some that these gentlemen, many of them being persons of fortune and knowledge, would at this summons, and from these hands, take upon them the supreme authority of this nation, considering how little authority Cromwell and his officers had to give it, or these gentlemen to take it; but it was accepted by them."—WHITELOCKE'S *Memorials*, *p.* 534.

and exercises of religion in all their lives as they did that day.[1] In the evening of that day Mr Francis Rouse [2] was called to the chair, and chosen speaker; and then the house was adjourned to the next day, when the house appointed to pray again three or four days after, which accordingly was done by the members, principally by such as had not done service before, when also the lord general was present, and it was a very comfortable day. But after the house had spent the first day in prayer, and were the next day met again after prayer, which was daily performed by one member or other, as they were found free to perform it: They then proceeded to call over the house, read and laid up the instrument of their impowering, chose a clerk, and after a sergeant at arms, and chose a committee to consider what officers and attendants were necessary to be taken in, and to consider of the fees and salaries of such as should be employed; which accordingly was done and confirmed by the house, charge being given to the committee that care should be taken that none but such as feared God should be employed. About this time there was a great debate what name they should give themselves to be called by, in as much as their call was looked on as extraordinary, divers titles were proposed, but at last being put to the vote, it was carried to call themselves by the name of *The Parliament of the Commonwealth of England.* The lowness and innocency of the title, having little of earthly glory or boasting in it, induced some to give their vote for that, though others were much against it. The first thing that was done was a solemn declaration to the good people of the commonwealth and to all the world, of owning themselves a parliament and the supreme power of this nation; which was drawn up by a committee, and then read and passed in the house: in which specious things are held forth of the goodness of God to the people of these nations, with intimation of what our endeavours should be for their good, stirring them up earnestly to prayer and seeking of God; which seemed to be well relished by all good people.

Then there was a proceed to choose the council of state, of the number of thirty-one persons, which accordingly was done. The powers and instructions read and passed. It so fell out that the great grievance of tithes was taken on and debated three or four days, but with little success; for whereas all the house, for the most part, were sensible that it was a grievance fit to be removed, the difference was, some would not give way to the remove of it, till some other thing were provided to be set in the room of it; others would have it removed as a grievance in the first place, and then to make provision as God should direct. In the debate, difference was made betwixt impropriators and that which was otherwise; and all seemed free and willing that impropriators should be satisfied the value; and therefore, upon the choosing of a committee for tithes, only that of incumbents was to be considered of.

The house, after much time spent as afore, waved it till a further time and better leisure: Then the house was methodized into several committees, for the better dispatch of business, so as none might be idle, but all employed in public service. Beside the council of state, six or seven committees were chosen and set to work: the committee for the army, the committee for prisons and prisoners, the committee for regulating the law, the committee for justices and for the poor, the committee for public debts, the committee for the Scots and Irish affairs, the committee for petitions; which committees sate daily, and took great pains morning and evening, almost every day in the week, to dispatch business, and make things ready for the house; and many things were fitted and prepared, of which hereafter.

[1] This exercise lasted till seven o'clock in the evening. The Dutch deputies, like carnal self-seekers as they were, transmit no other note of the prayers preferred by this gifted parliament unless that one member prayed for a peace with the high and mighty States, their constituents.—THURLOE'S *Collection, vol. I. p.* 338.

[2] A gentleman of Devonshire, and provost of Eaton.

Mr Lilburn [1] about this time petitioned the house, then his wife petitioned, after some of Buckinghamshire, and also Hertfordshire, likewise some in and about London, lastly, some that called themselves young men and apprentices, who delivered a high and peremptory petition in his behalf; all which occasioned much debate and expence of time. The young men's petition was voted scandalous, and they ordered to be taken into custody, and accordingly six of them were committed. One in a few days being sick, the house discharged him. The five petitioning, having been in custody some days, and having been something stiff, refusing to tell their names, instead of being released, were ordered to be sent to Bridewell, there to be kept to hard labour; and accordingly they were sent and kept there; and after some time they being some of them sick, and having petitioned twice, four of the five were by the order of the house released; the other remaineth prisoner to this day, the only high piece of justice the house did all the time of their sitting, and wherein there could not be much of honour, for it was but as the lion trampling on the mouse. [2] This business of Mr Lilburn receiving and answering the petitions before mentioned, concerning himself and the apprentices petitions for their liberty, spent very much time, and held many sharp debates; some members of the house earnestly moving to have had his trial suspended, and the act called in question by which he was banished and made a felon, that the merit of the cause might be looked into; which they professed again and again they did not do it so much in the favour of Mr Lilburn, as in the right of themselves and their posterities, and all Englishmen, which they judged highly concerned therein: But other gentlemen of note being very opposite, nothing came of the whole but expence of time, and loss of the love and affections of many good people, whose petitions were denied. His trial going on, as some in the house had suggested, so it came to pass he was by the jury acquitted, to the losing the love of some, and to the scorn and contempt by others.

By this time many matters were fitted and prepared by the committees, who made their daily reports. The council of state having the preheminence to be first heard, divers things were offered by them, some of which had been considered of by them in the interval of parliament. Many things passed, and were dispatched, of what they reported, and which other committees did likewise report, which spent not a little time. Business came on so fast from committees, which did cause striving which should be first heard, and much time lost thereby. There were many particular things ordered and dispatched by the house, as, "The relieving the sufferings of many by fires, in many parts of the nation; some their grievances redressed; some their petitions and desires granted; some had obstructions in their purchases removed by the house." The business of providing monies (all other things ever giving way to that) occasioned expence of much time, and great debate of ways and means to that end. The fights at sea coming to knowledge by letters; the reading of them; the acknowleding God's goodness, and praising his holy name; the taking care to provide for the sick and maimed; the relieving the widows of such whose husbands were slain; the honouring with rewards the chieftains and commanders; with the bestowing several sums of money on the widows and children of such captains as were slain in the fight, in conside-

[1] This extraordinary person, who had been obliged to retire abroad on account of his contumacy to Cromwell, had ventured home, notwithstanding an act of banishment passed against him by the Long Parliament. On his arrival in England, in June, 1653, he was arrested on the lord mayor's warrant, and committed to Newgate. The petitions in his favour mentioned in the text were probably presented under the idea of their being acceptable to that part of the parliament called Levellers; but Cromwell's party was strong enough to overpower all exertions made in favour of one whom their chief thought it essential to crush entirely.

[2] This petition of the apprentices was presented on the 1st August, and, both by its contents and the demeanour of those who presented it, gave great offence to the predominant party in the house.—WHITELOCK's *Memorials*, p. 543.

ration of their loss of such husbands and fathers; all which were things just and honourable, but not done without expence of time. The dispatch of ambassadors to foreign parts, as to Turkey and to Sweden, their letters of credence, and commissions signed and sealed, the receipt of letters from Switzerland and other free states, the reading of them and returning answers, may be reckoned into the expence of time. The council of state chosen a second time by the box or glass, where every one put in his paper of names, and those that had most votes carried it, spent more time than one whole day.

To omit very many things, toward the end of the house's sitting, the business of the excise came on, where about three days were spent in passing the rates particularly by vote. The old and new drapery, hats, caps, and tobacco pipes, were by vote exempted from the duty of excise. The bill following, in order of the rates, was very large, of about eighty sheets of paper, spent one whole day in the hearing of it read; and there appeared so many snares and difficulties in it as to trade, as was judged no way fit to be put on a people that expected freedom at the price of their blood and treasure, by them spent in the late war; whereupon it was by general consent waved and laid aside. There were divers bills prepared by several committees, some of which were read in the house, and others offered to have them read; but other business hindered, as, "A bill for constituting a committee for advance of trade," "A bill for work-houses and providing for the poor," "Divers bills for regulation of the law, and making of it less chargeable to the people, and more expeditious."

There were several acts passed by the house in time of their sitting. The particulars here follow, viz.

1. An act for the committee of the army and treasurers of war.

2. An act for constituting commissioners for ordering and managing the admiralty and navy.

3. An act for settling the court of admiralty. Much time spent in fixing on judges.

4. An act for taking away fines on original writs, which was, as some knowing gentlemen of worth in the house affirmed, to the saving of the people of this commonwealth an hundred and twenty thousand pounds per annum, only ten or twelve thousand pounds thereof coming to the state.

5. An act touching the several receipts of the revenue and treasuries of the commonwealth, and the bringing them into one treasury.

6. An act for marriages, and the registering of them; as also births and burials Much time spent in the debate about marriages, there being many niceties and difficult cases relating to that subject.

7. An act for the more speedy bringing in of the arrears of the excise, and settling commissioners to that end.

8. An act concerning the planters of tobacco in Gloucestershire and elsewhere.

9. An act to continue the receipt of the excise till the 29th of December last.

10. An act additional and explanatory for the sale of the remaining fee-farm rents, and finishing the whole business.

11. An act for settling Ireland, and making it a part of the commonwealth, and satisfying the adventurers and soldiers with lands; which act being very large and comprehensive, took many days debate before it could be passed as a law.

12. An act for the relief of creditors and poor prisoners. The fruit of it hath shewn the worth of it, three hundred poor starving souls having been freed thereby in and about London; a law so just and honourable, as England hath few better, which passed not without serious debate.

13. An act for accounts, and clearing public debts, and for the discovery of fraud and concealment of any thing due to the commonwealth.

14. An act impowering the committee of the army to state and determine the accounts of all soldiers and others employed by them, for moneys by them received from the 26th of March, 1647, until the 25th of July, 1653.

15. An act for redress of delays and mischiefs arising by writs of error, and writs of false judgment in several cases.

16. An act for repealing of a branch of an act of the late parliament, intituled, "An Act for subscribing the Engagement," which was much to the ease and profit of the people, and to the loss of the lawyers.

17. An act for the regulating the making of stuffs in the county of Norwich and Norfolk.

18. An act for a high court of justice; cost indeed but one day's time, the reading, debate, and passing for a law, by reason of the great haste some gentlemen made, pretending great danger to themselves and the commonwealth, so as no reasons could prevail to have it recommitted as some desired, or that the acts for treasons might be read, that the commissioners were to proceed upon, as others moved to have them; nor yet that the bill might be ingrossed, being to be a law that concerned life; for then it could not have passed till the next day, when some that were perceived that day absent, being praying at the Black-friers, might be present, and hinder, as it is likely to be feared, the passing of it; which had they done, they had saved much the credit of the council; for to wise men it seemed a very weak piece, and experience hath (thanks be to God) shewn there was not that sudden danger as some gentlemen suggested, that did not let to say (in answer to those that would have had it engrossed against the next morning,) "That they knew not but by that time they might have their throats cut."[1]

19. An act for deofforistation and improvement of the forests, and of the honours, manors, lands, and tenements, within the limits and perambulations of the same, heretofore belonging to the king, queen, and prince; a very large act, and comprehensive in the particulars, wherein the old farmers of the custom-house, that lent the old king money, to make war with the Scots, were admitted to have their old debts made public faith to double on, to the sum of two hundred seventy-six thousand pounds, to the end to be sure to have money against the spring. It was complied with; and some very eminent and wise gentlemen made others believe there was no question but the money would be provided ready against the times, though other members of less note told the house what they thought, even as it is come to pass.

20. An act confirming to the purchasers of Sir John Stowel's lands what they had purchased of the state.

21. An act for an assessment at the rate of one hundred and twenty thousand pounds a month, for six months, from the twenty fifth of December, one thousand six hundred fifty and three, to the twenty-fourth of June then next ensuing, for the maintenance of the armies and navy of this commonwealth, being a very large act, and that which took up many days in the debate and passing of it, there being a desire, if possible, it might have been to have abated something of that sum, and that it might be laid equally: Many votes passed, and very sharp debates, by reason of the great inequality that was evident in the laying of the tax, some countries bearing beyond their proportion, and some much less, which made the burthen more grievous than otherwise it would be: When, after many days spent in the modelizing of the bill, and it came to be passed, some gentlemen gave their reasons why they could not give their *yea* to pass it for a law, for the unrighteousnesse that was in it (and something else) which had been

[1] The ordinary courts of law proved as refractory to Cromwell as his parliaments. Lilburn was acquitted at the Old Bailey, 20th August, 1653; and it was plain that no jury was to be trusted with the trial of his enemies. This induced Cromwell to force through the erection of a high court of justice for the trial of state offences.

laid forth in the debate. The great inequality betwixt county and county, city and city, hundred and hundred, and so of particular estates, some paying but two or three shillings in the pound, and others four or five; yea, some ten or twelve shillings for their real estate, beside what they paid for their personal; in which, some of London passionately complained of their being over-rated, they paying eight thousand pounds a month, the fifteenth part of the whole assessment of the commonwealth; when, as they with great confidence affirmed, that they were not the fortieth part of the commonwealth in value, as their case now was. The act ingrossed, and the question being put, the *No's* (as to the making it a law that very day) had they been prosecuted to the pole, had hazarded the passing of it; it having been earnestly pressed, that it might be amended at the table, or recommitted to be amended against the next day.

A gentleman[1] that first moved to have the house give up that morning they were dissolved, made this one of his reasons why he could sit no longer with his fellows, because of their dealing so disingenuously with the army, some other gentleman having spoken to the same account; but as to this, those that gave their *No's* in the vote against the then passing of the bill upon the account before, can say, they never were in arms against the parliament and army, nor were ever in Oxford, or any other garrison that stood in opposition to them. And for their constant cordial affection to them, they may safely say, without boasting, they have been but a very little behind them that have been the highest and best affected in the nation, whatever those gentlemen please to say. To endeavour to have the assessment equally laid and borne, tended much to the army's good rather than hurt, whereby they might continue to enjoy the love and affection of the people unto them.

22. An act for the continuing of the privileges and jurisdiction of the county of Lancaster.

23. An act touching idiots and lunatics.

24. An act for enabling commissioners of parliament for compounding with delinquents to dispose of two parts of the lands and estates of recusants, for the benefit of the commonwealth.

An act that cost much time in the debate of it; for that some gentlemen fearing it amounted to the toleration of popery, did strongly oppose it, and caused it to be so modelized, as that it was never like to attain the end aimed at, as some then declared; of which experience now can best declare and speak.

25. A second act for the constituting commissioners for ordering and managing of the affairs of the admiralty and navy.

26. An act for the better and more effectual discovery of thieves and highwaymen.

There was also a bill brought in and read, and debated for the uniting of Scotland to the commonwealth of England, as a part of it, with equal privileges, which spent two or three days debate in a grand committee of the whole house, before it was ordered to be ingrossed, being a thing of very great weight and concernment; being ingrossed, it lay ready on the table to be read and passed: But the highlanders putting the country into distemper, it was not put to be passed for a law while the house continued.

By this time it will appear the house was not altogether idle, nor at a stand in their work, so as there was need to have them dissolved on that score: Indeed, much more might have been done and proceeded in, if there had not been something that did let. The two great grievances of the law and tythes, had such friends in the house, as that, when either of those things came into debate, the house was as divided into two parts;

[1] Sir Charles Wisley, Charles Howard, and several others, in whom Cromwell reposed great confidence, had been originally attached to the royalist party.

the one very indulgent, still pleading and making defence in their behalf; the other endeavouring the redress of them. Great counsels agree not in all things presently; yet is that no good ground of their dissolution: That the house was not idle, nor at a stand, nor in an incapacity to do the work of the nation, though so divided as aforesaid, may, beside what appeareth already, be further taken knowledge of by these ensuing votes, which follow.

There were four great votes that passed in the time of the sitting of the house, which some interests were much displeased at, and they passed not without great debate.

First, A vote for abolishing and taking away the court of Chancery.

Secondly, A vote for a new body or model of the law.

Thirdly, A vote to take away the power of patrons to make presentations.

Fourthly, That innocent negative vote of not agreeing with the report of the committee for tythes, touching what they reported, as the best way to eject scandalous, prophane, and ignorant ministers, &c. upon which followed presently the dissolution of the house.

A little of each of these, because of the great dust that is raised, to the blinding of some, and enraging of others, against them that sought not themselves, but the good of the commonwealth in general, and no private or particular interests.

First, For the Chancery; it was looked on as a great grievance, one of the greatest in the nation, so many horrible things were affirmed of it by members of the house, as those that were, or had a mind to be advocates for it, had little to say on the behalf of it; and so at the end of one days debate, the question being put, it was voted down.

For dilatories, chargeableness, and a faculty of letting blood the people in the purse veins, even to their utter perishing and undoing, as by what was spoken and affirmed at the debate, that court may compare (if not surpass) any court in the world. It was confidently affirmed, by knowing gentlemen of worth, that there were depending in that court, twenty-three thousand causes: That some of them had been there depending five, some ten, some twenty, some thirty years or more: That there had been spent in causes, many hundred, nay thousands of pounds, to the ruin, nay utter undoing of many families: That no ship almost (to wit, cause) that sailed in the sea of the law, but first or last putting into that port; and if they made any considerable stay there, they suffered so much loss, as the remedy was as bad as the disease. That what was ordered one day was contradicted the next; so as in some causes there had been five hundred orders, and far more, as some affirmed; that when the purses of the clients began to be empty, and their spirits a little cooled, then by a reference to some gentlemen in the country, the cause so long depending, at so great charge, came to be ended, so as some did look on it as it now is, as a mystery of wickedness and a standing cheat.

How sad a thing is it, that after such appearances of God in the land, such a court, in such a way of practice, should be continued, to greaten the retainers to it, and practisers in it, by the ruin of others, eating the fat and sweat of other men's labours and estates. It is to be hoped such wickedness is not long lived. How did good people rejoice when they heard of that vote, and how sad and sorrowful were the lawyers and clerks, for the fear of the loss of their great Diana, may be remembered! with their great joy in making bonfires and drinking sack, when they were delivered from their fears by the dissolution of the late parliament.[1]

The committee for the regulating of the law, in pursuance of the vote, brought in

[1] A republican tract, published in the Harleian Miscellany, mentions that Sir William Roberts "was of the Little (*i. e.* Barebone's) Parliament, and helped to break it, and then, according to Revelations xi. 10, rejoiced and made merry with the rest of his brethren in Colonel Sydenham's chamber, as the lawyers and other wild persons made bone-fires, and drank sack at the Temple and elsewhere."—*A second Narrative of the late Parliament.*

a bill for the taking away the said court: But for that there was not provision made for the future, and for the causes then depending, altogether it was opposed by those gentlemen that had no mind it should be taken away; and so it came to be waved and laid aside, and the committee ordered to bring in a bill that might do all.

The members of that committee having many of them occasion to be absent in the country, in fetching up and settling their families before winter, nothing was done till toward the term, when a bill was brought in and read in the house. That was looked on by many as the washing of the blackamoor, or pruning or lopping evil branches, where three or four in a little time will come instead of one cut off. Upon debate, it came to the question, and was carried in the negative, and cast out.

Then shortly after another bill was brought in and read, which to very many seemed to be a setting up of two courts, rather than a casting down one, and an establishing of the Chancery, rather than taking it away; some gentlemen of great note of the long robe had a hand in it, that is likely will never spoil their own trade; the bill by very many, after a long and sharp debate, was judged short of the end aimed at; and being put to the question, it passed in the negative, and was also cast out; at which some of those gentlemen aforesaid were very much displeased.

The term by this time was begun, and the people not eased, as was hoped would have been; at which those members that carried the vote for putting down that corrupt court, were sorely vexed and troubled, who took little delight to come through the hall, and to see the corrupt trade going on. Some of them moved to have had the court suspended for three weeks or a month, till something might be done in it; but it was not consented unto, or thought fit; and so the term and trade of the law went on, and the committee went to work again. And by this time, some other members of that committee, that were not such great zealots for the upholding of that court, were come to town, so as the bill was modelized and prepared, which they of the committee thought would answer the end, and be to the liking of the house; in which was provided for the taking down the court, and for the dispatch of the causes depending, and providing for the future in a summary way, so as any ordinary cause might be determined and ended for twenty or forty shillings, and in a very short time, and much strife and going to law prevented.

But the house being full of business, there was no opportunity to tender it, and so they let it alone till a fitter time and more leisure.

If a copy of that intended bill were printed, it might be judged what their intentions were, for that after it was got in and twice read in the house in one day.

The second vote, which was for a new body of the law, passed not without a large debate. The clerk in drawing up the question, put the word body instead of model, which some members, for the passing of the vote before and after, desired to have altered; but others, lovers of the law as now it is, opposed the alteration of the word, being very angry at the vote, and so it went as it was, with some seeming disadvantage, by means of the word body, which some of those aforesaid, being angry, would needs fancy, and accordingly reported, as if it were intended to destroy the law, and take away the laws we had been fighting for all this while as our birthright and inheritance.

And such a noise was made about it, that made many believe that the house was modelized of monsters, rather than men of reason and judgment.[1]

[1] Cromwell founded chiefly upon this vote an accusation against Barebone's parliament, that they intended to overthrow the law of England from its very foundation. As far as one can judge from his embarrassed and complicated mode of expression, he seems to represent this assembly as a sort of experiment, made to discover how far a parliament composed of independents, sectaries, and levellers, were qualified to legislate for the kingdom, whose legal constitution they had been able to overthrow. These are the Protector's words:—

"Truly I will now come and tell you a story of my own weakness and folly, and yet it was done in my simplicity, I dare avow it was; and though some of my companions, and truly this is a story that would not be

There were very sober and moderate gentlemen, in the account of all men, that concurred heartily in this vote, such as upon whom little blemish will stick.

The reasons, or some of them, that were alledged in the debate producing this vote, was the intricacy, uncertainty, and incongruity in many things with the word of God and right reason, in the laws as now they are.

First, Whereas the laws ought to be easy, plain, and short, so as they that were to be subject to them, and have benefit by them, might be able to know and understand them in some good measure.

They are now so voluminous, and thereby intricate and uncertain, dark and concealed, as few are able to come to the knowledge of them, those of the profession of the law differing in very many cases what the law is, and being of several opinions about this and the other thing: And then how should others, though highly concerned, be able to understand them and their interest therein contained, there being so many law-books of great bulk, so many old musty records, reports, and book-cases, as that, after the time spent in school learning, the rest of the time of the flower of a man's years would be little enough to read them over and peruse them.

And, beside, those records and book-cases are very ill guides or lights to go by; for who knoweth the circumstances that did attend them, which alters oft-times the whole case? Who knoweth whether in those cases bribery did not make the judgment, or the powerfulness of some great man, or the love or hatred of the judge, or the negligence and corruption of the advocate? And besides, in those law cases, some precedents are directly contrary to others; and an advocate or counsel alledgeth one case or report, and another, another, and then the judge followeth which he pleaseth: How arbitrary is the law in this case, and at what uncertainty are the great interests and properties of men!

Beside, how various are the customs which notwithstanding passeth for law, usually unknown but to some old men of the place, which though it be never so unrighteous and unreasonable, *time out of mind* carries it. How bulky and voluminous are the statute books! and of so great a price as few are able to buy them, and so large that few can spare time to read them, to know their right, and how they are concerned in them; and yet they must be judged, and stand or fall by them. And many times some old musty statute of a hundred years old and more imprinted, is found and made use of by some crafty lawyer, to the undoing of an honest man that meant no hurt, nor knew any thing at all of the danger. Upon something held forth to this effect, the vote was carried for a new body or model of the law. and a committee chosen to that end, who met often, and had the help of some gentlemen of worth that have deserved well of their country, being true patriots, who liked well the thing, as very useful and desira-

recorded, a story that would not be told but when good use may be made of it. I say it was thought then that men of our judgment, and that had fought in the wars, and were all of a piece upon that account; why surely these men will hit it, and these men will do it to the purpose, whatever can be desired, truly we did think, and I did think so, the more to blame of, and such a company of men were chose and did proceed in action, and truly this was the naked truth, that the issue was not answerable to the simplicity and honesty of the design; what the issue of that meeting would have been and was feared, upon which the sober men of that meeting did withdraw, and came and returned my power as far as they could, they did actually the greater part of them into my own hand, professing and believing that the issue of that meeting would have been the subversion of your laws, and of all the liberties of this nation, the destruction of the ministers of this nation; in a word, the confusion of all things; and instead of order, to set up the judicial law of Moses, in abrogation of all our administration, to have been administred by the judicial law of Moses, *pro hinc et nunc*, according to the wisdom of any man that would have interpreted the text; this way or that way; and if you do not believe that they were sent home by the major part, who were judicious and sober and learned, the worst upon this account, and with my consent, also *à parte post*, you will believe nothing; for the persons that lead in the meeting were Mr Peake and his meeting in Black-Friers, Major General Harrison, and those that associated with him, at one Mr Squibb's house, and there were all the resolutions taken that were acted in the house day by day, and this was so *de facto*, I know it to be true."—*The Protector's Speech at the Conference at Whitehall.*

ble, it being not a destroying of the law, or putting it down, as some scandalously reported, but a selecting the wholesome, just, and good laws into a body, from them that are useless and out of date; such as concerned the bishops and holy church (so called,) and were made in favour of kings, and the lusts of great men, of which there are very many; the law of God being eyed, and right reason looked unto in all, there being some of the laws that are contrary to both; as the putting of men to death for theft, the sparing of the lives of men for murder, under the notion and name of manslaughter, a term and distinction not found in the righteous law of God; and that unreasonable law, that if a waggon or cart, &c., driven by the owner, or some other, with never so great care and endeavour, fall and kill any person, the owner, though it were his own son or servant, could no way help it, shall lose his horse and waggon, by the prophane and superstitious name of deodand; and the owners of the goods shall lose them also upon the same account, though they were as innocent as Abel. Other instances might also be given.

The way the committee took in order to their work, which must needs be elaborate, was by reducing the several laws to their proper heads to which they did belong, and so modelizing or embodying of them, taking knowledge of the nature of them, and what the law of God said in the case, and how agreeable to right reason they were; likewise how proportionable the punishment was to the offence or crime, and wherein there seemed any thing either deficient or excessive, to offer a supply and remedy, in order to rectifying the whole. The committee began with criminals. Treason being the highest, they considered the kinds; what was meet to be adjudged treason in a free commonwealth, and what was meet to be the punishment of grand and petty treason. Then they proceeded to murder, the kinds of it, and what was to be so adjudged, and the punishment thereof. The like they intended concerning theft; and after to have ascertained and secured property, as also the executive part of the law, so as a person should not need to lose or part with one property, to secure and keep another, as now it is; persons being forced to lose or part with the property of their cow to keep the property of their horse; and one piece or parcel of land to preserve and keep another. Which body of law, when modelized, was to be reported to the house to be considered of, and passed by them as they should see cause; a work great, and of high and great esteem with many, for the great fruit and benefit that would come by it; by which means the great volumes of law would come to be reduced into the bigness of a pocket book, as it is proportionable in New-England and elsewhere; a thing of so great worth and benefit as England is not yet worthy of, nor likely in a short time to be so blessed as to enjoy. And this being the true end and endeavour of those members that laboured in that committee, it is submitted to every godly and rational man in the nation, whether (as is most falsely and wickedly reported and charged upon persons acting in so much love to their country) their endeavours tended to destroying the whole laws, and pulling them up by the roots.

The third vote was the taking away of patrons presentations, which thing is one of the strong holds of Satan:[1] At the passing of this vote some gentlemen were greatly offended, pretending it was a destroying and taking away property: The gentleman that moved first to have the house dissolved made this one of his great reasons why he could sit no longer with his fellows, being very conscious, like those that stumble at a straw, and yet leap over a block, tithe mint and cummin, and neglect the great things of the

[1] The house seem to have proceeded on a petition from the town of Sudbury, "Deploring the want of faithfulness for many years, and desiring instruments for good, and fearing the judgments of Eli's house; praying, therefore, that burying places may be placed in all parts of the land, and maintenance provided for them, that ignorant and scandalous preachers might be ejected, and not re-admitted, and that the ungospel-like power of patrons might be taken away."

law. This vote, after a sharp debate, was carried in, in which very sober gentlemen concurred, such as are not blemished as sectaries or levellers, though they had of this kind of property themselves some two or three a-piece, that out of conscience, for the better advance of the knowledge of the gospel and interest of the Lord Christ, they were willing to part with their right herein.

The nature of this property may be a little minded, because of the great outcry that is everywhere made, "Oh the parliament-men, many of them are such as would destroy all property!" as if they had none themselves, when as, though all of them had not very bulky estates, yet they had free estates, and were not of broken fortunes, or such as owed great sums of money, ten thousand pounds and more, and those to whom they were so in debt knew not how to get a penny of it, but stood in need of privilege and protection, as formerly it hath been. The nature of this property looked into and considered, will appear to be partly of an earthly, and partly of spiritual nature; these two, mixed and twisted together, make up this right or property of having power to present a person to be minister there. To have the earthly, or civil advantaged tithes, and offerings, and glebe-land, if there be any, and to have the more religious, or spiritual right and interest, the cure and care of souls, of all living within that circumference called a parish, and to have the right to officiate to God and man there: And is not this property worth the standing for? to be lord patron, so as he may open the door to whom he pleaseth, and be sure he let in such a one as will comply, and serve his interest, and wink at his vicious courses, and not vex and disquiet his greatness, by telling him of his faults, as some time John Baptist did Herod; or as those which prophanely they call puritans and sectarian ministers use to do.

But seeing to sell this property were no less than the sin of simony, what worldly advantage can he make of it? Thus if the church be full (so they blasphemously call it,) Christ being the only fulness of the church, and not some ignorant, prophane, and lazy priest, that is a miserable fulness with which some churches (so called) are filled. In such a case of fulness, the lord patron may sell the reversion for a considerable sum of money, to some one or other that hath sent his son to Oxford or Cambridge to learn the art of logic and philosophy, by which craft he may know how to get his living another day; and so the old incumbent dying, this young artist cometh to be presented one, to enter and take possession, and so to enjoy his portion his father provided for him, the glebe, the tithes, the oblations, together with the care and cure of souls, and right of officiating to God and man there; for this his father bought and purchased for him, and who shall take it from him? But if the church be empty, that is, of a priest, then all his property amounteth but to a shadow, unless it be sure to put in one that, being beholden to him, shall be sure to serve him, and to forbear his lusts; or else marry his kinswoman, or his wife's gentlewoman or chambermaid, in consideration of being presented to be settled there: But can this work of darkness and root of iniquity abide the light, or look in the face without blushing, the glorious light of the gospel that now shineth in this our horizon? Is not this property a relic of the merchandize of the great whore, Rev. xviii. 13, that buyeth and selleth amongst other wares the souls of men? What a sad account have the most of these proprietors, these presenters and presented, to make, for the many thousand souls that have perished by their means?

But doth that gentleman that made this one of his reasons, as before, why he could sit no longer with his fellows to do the work of the commonwealth, think indeed, and is it really his judgment, that a parliament or supreme authority have nothing to do to meddle with property, so as it should be so great an offence to meddle with the airy property of presentations? Sure, upon consideration, he and those gentlemen that were so offended cannot but think otherwise. That the parliament may, for a common good,

This parliament consisted chiefly of tradesmen and mechanics.

meddle with and take away property of a higher nature than presentations, and of higher and more nigh concernment, especially when particular men's property is prejudicial to common good, so as the whole is profited by the loss of particular persons, he surely was one of them that gave his yea for the passing of the bill for the monthly assessment, notwithstanding it meddled with property, even the fifth part of the yearly revenue and income of most men; and sure he cannot but think they might do it, in order to pass like good, without any destroying property; though many are as unwilling to part with it as those gentlemen can be to part with their property of presentations.

Was it a destroying property, in his judgment, for the former parliament to take into their hands, and to sell away the lands of bishops, deans, and chapters, which they enjoyed as their properties, with many rights and privileges not inferior to presentations, which some of them had never made forfeiture of by acting against the parliament?

Was the taking the five and twentieth part of persons estates for the good of the whole a destroying property? Indeed some said so then, but we know what they were accounted for so saying, no less than malignants.

Surely those gentlemen will not so say of the instrument or model of new government,[1] or those that made it, as they do of those that passed that vote, notwithstanding it takes two hundred thousand pounds per annum for the carrying of it on.

The former parliament they did not reckon that they went beyond their power, nor that they overthrew property, when they passed the act for the draining of the fens, giving away very much of the lands (the chiefest property) of the owner to the undertakers, in order to public good.

The fourth vote, whereupon followed the dissolution of the parliament, was that harmless negative, of not complying with the report of the committee, touching what they offered as the best way to eject ignorant, prophane, and scandalous ministers, and encouraging them that are good, &c. of which two things, and so an end of this discourse. First, of the proceed to it, and in the debate of it, and then that which followed after it till the house was dissolved. The proceed was shortly thus: After the aforesaid vote had passed, and some of the gentlemen of the house were in readiness to offer the bill, the committee for tithes to counter-work, and keep that off, as some thought, did on Monday morning offer this report, and many were for the taking of it on; others were against the meddling with it at that time, some moving to have the bill taken in concerning presentations, some to fall on things of more present concernment, as the bill for uniting Scotland to England. Reasons were offered on every side, and after one of the clock the house rose and nothing fastened on. The next morning those that were for the report to be taken in the day before moved again, and the other not opposing, it was taken in, but not without being put to the vote, whether the house would take it in, which was carried in the affirmative; and so the debate began, and continued day after day, till after one of the clock each day, the speaker being aged, and not able to sit longer. The debate was managed day by day with very great seriousness, many arguments and scriptures being alledged.

The house being evenly poised, and great attendance being given by the members, waiting the time of the vote, and though any member might, by the rules of the house, have spoken every day so long as the debate continued, yet such was the modesty shewed, that hardly any on all the five days spake twice, very little of heat or passion being shewed all that time, only one gentleman or two that were for the report, seeing themselves and their party so engaged, flew out a little, complaining of the expence of time, to have given a check to the going on of the debate. But the orders of the house

[1] The Instrument of Government, as Cromwell was pleased to denominate this new constitution, by which he was named Protector.

being called for by some of the other side to the speaker, he declared it to be the right of every one to be heard, and that the question could not be put so long as any would speak to it; withall those gentlemen were told of their restlesness to take on the debate, and how now they wanted patience to wait the issue of it; after three or four days, a member that was against the report offered an expedient, but was not accepted: At last on Saturday toward noon the question grew near, as did also the end of the parliament, some members that were against the report having not spoken, and essaying to speak, were persuaded to forbear, who only gathered the issue and result of the whole, and left it to the house; which was, whether upon the whole this in the report was the best expedient for that end? which some on the other side, that were for the report, perceiving the stress of the question put there, moved that the word best might be put out; but it was not admitted, having been in the report all the time of the debate: So about one of the clock the vote passed, and upon dividing the house, was carried in the negative. A debate of that nature and length, in so great a council, hardly ever passed with such soberness and little heat or passion: The business was in *statu quo*, as to any one's being either better or worse, the report was laid aside, for that the first part of it, whereon the other part depended, was rejected; to wit, that the best way to eject ignorant, prophane, and scandalous ministers, and to encourage them that are good, was by sending certain commissioners impowered to do it, as at full length hath been put forth in print already. There was at the passing this vote 115 members, whereof 54 were for the affirmative, and 56 for the negative, and two gentlemen tellers for each side, and the speaker, which make up that number.

To go about to tell of the arguments insisted on, from the scriptures and from experience, and other reasons of a prudential consideration, would be too tedious; that this vote, that hurt no body, should occasion such wonderful displeasure and outcry every where, is at least wonderful: If men were asked (as Micah was) what aileth them? they would hardly be able to tell so well as he did. Is it not much, when as godly sober men, in discharge of their duty and trust, for the glory of God, and good of their country, should leave their habitations, relations, and enjoyments, spend their time and means to serve their country, and be so rewarded with scandalous and false reports, and to have judgment of high condemnation passed on them upon hearsay, without the least shew of proof? Is it not much that men of learning, leaders, and teachers of others, that would be esteemed godly orthodox divines, ministers of Christ, and preachers of his gospel, should be of such a spirit and strain, so unlike Christ and the gospel, as to utter such speeches in pulpits, and elsewhere? that they, meaning those that complied not in the aforementioned vote, and voted in the other, were the arrantest rogues and villains that ever the earth bore; that their design was worse than the gun-powder treason; that they would have destroyed the magistracy and the ministry, the law and the gospel, &c. that it were well if one of ten of them were hanged up, and then there would be happy days. Might not enquiry be made, what is the matter of this their so great rage and displeasure? who hath done them wrong? No question but they would say, "Oh they would have destroyed all the ministers, good as well as bad, and overthrown the gospel;" for so they frequently say: Heinous crimes indeed! But how doth it appear? Only thus; they were against those grievances of the law and tithes, and would have had those taken away; and they would not concur with the report of the committee in order to the settling of tithes, that being in the bottom of the report; so as by these men's logic and conclusion, those two grievances of the law and tithes (which these so reproached laboured to have taken away) are the magistracy and ministry; the corrupt law, or corruption of the law, are the magistracy; and tithes, they are the ministry, yea more, the gospel also: But, alas! magistracy can stand without such horrible corruptions of law, and the ministry without tithes, as it is in other countries where there is neither of them. But the belly hath no ears, and therefore no more shall be said.

The aforementioned vote passing as it did, those gentlemen that missed of their expectations, and were crossed of having their wills, greatly fearing, as it seemeth, it would go ill with those corrupt interests of the lawyers and clergy, which they endeavoured to support, they took the pet, and were exceeding wroth divers of them; and that afternoon and the next day (being the Lord's day, a day fitter for better employment) they took counsel with and among themselves, holding cabals, and there consulting the overthrow and dissolution of the house, which was, as they had declared to all the world, the supreme authority or magistracy, the parliament of the commonwealth of England. Is it not much that gentlemen pretending so high to wisdom and godliness, for missing and having their wills in a vote carried in the negative, should be induced thereby presently to take on such desperate counsels and resolves, and to draw others into them ignorantly, forgetting, as it seemeth, what they had solemnly declared before God, and all the world; to wit, that the house was the supreme authority of the commonwealth of England, which commonwealth God had highly honoured, and made famous throughout the world; forgetting also their severity against malapert words given in a petition, because it was the supreme authority. What might such counsels, resolves, and actings merit by their own law? Had they no charity in them towards their fellows, because crossed in that poor vote? Had they lost or laid aside the fear of God, that they could thus venture to overthrow magistracy, even the greatest in the commonwealth, the parliament and supreme authority, to the endangering the whole cause? The members that they were so angry with, and have so reproached, as being against magistracy and ministry, because that poor negative vote was carried against their wills, may say to them, as Jehu said to the rulers of Samaria, 2 Kings x. 9. "Ye are righteous." Indeed they voted in the affirmative in those former votes, in the negative in these last votes concerning triers. But who consulted and put in practice the overthrow and dissolution of the parliament and supreme authority of the commonwealth of England? Having slept upon their counsels, they are of the same mind still, and address themselves to put it in execution, rising early and coming betimes to put in practice their design, which was to dissolve and put to an end the parliament of the commonwealth of England in their own esteem, and being come, they feared not to begin with prayer to God, the searcher of hearts, and then proceed to declare their purpose, and the reasons of it, laying load upon their fellows in way of blame, that were less guilty of evil than themselves, uttering words that could not but astonish any good soul of a dying parliament, charging their fellows that were for the removing of the great grievances of the law and tithes, that they followed their own wills, nay their own lusts, words not fit to be spoken in a free council, and that might have been more truly said of themselves; when those of the other side, that knew nothing of their design, offered to speak, telling them it was no time to debate, only one patriot of those that were zealous for the remove of those afore-mentioned great grievances, stood up and got audience, speaking against what they had moved, intimating the good bills that were in readiness to be brought in for the people's good, and protesting before God, angels, and men, against what they had moved, and others of the same party standing ready to do the like, who called to the speaker to be heard, those gentlemen, without hearing their fellows, or admitting the debate, or putting the question, rose up out of their places to be gone, and others in simplicity followed, as once many did after Absalom, 2 Sam. xv. 11, not knowing any thing at all, but how they performed their trust the world may judge.

The speaker forgetting the duty of his place, though he was earnestly called unto to keep the chair, he left it; and the sergeant, as if he had been of council, took up the mace, and carried it before him, though he was spoken unto to the contrary, as in like manner did the chief-clerk; and thus in an irruptious way going out of the house without any adjournment or vote, left sitting thirty-four or thirty-five members in the

house, whether those that so went away were a greater or a lesser number, as is more likely, but is hard to be determined, though it be thought by some there were not seventy so early in the house.[1] Those that went out of the house, going toward Whitehall, met some coming to the house, who, seeing them go in that manner, thought they had adjourned thither, and so went along with them; others they sent for up and down where they could find them, to come to them to the horse chamber, where they were. Those in the house immediately betook themselves to consider what they had to do, being so deserted of their fellows; and telling over their number, they found themselves but thirty-four or thirty-five, which could not make a house, forty being the least number that might act in a parliamentary way.[2] And as they were going to consider among themselves, a colonel and lieutenant colonel of the army entered the house, and desired them to depart:[3] The members desired them to withdraw, for that they as members of parliament had warrant to be there, and if they had warrant to put them out, they wished them to shew it; but not many words passed, but they went back and opened the doors, and brought in the soldiers with their muskets, and then the gentlemen rose and went out, which was done before the other were half-way at Whitehall; and some so put out of the house, went after to Whitehall, to see what they were there doing, and found them in the horse chamber preparing a writing of surrender of their power back into his hands from whom they had received it. If they had been his council, and not legislators or a parliament, much might have been in it; it was three or four lines written in four or six several papers, that so the gentlemen might the more easily read and see what it was, which then the clerk ingrossed in parchment, and then they signed it by subscribing their names, as many as would, first the speaker, and then others according to their quality. It may be wondered at, that so great a power should be passed by so low and little an instrument. Some gentlemen went three or four days after, and set their hands to it: They that subscribed it did it on several grounds and reasons; some did it knowingly to dissolve the house, before dissolved by the soldiers, and their disorderly going away, which they had plotted and resolved before; some because some eminent persons of their party did it before them, expecting by that means to have been rid of some of the other party at the least, and they to have been continued in power without them, wherein they were deceived, and not a little vexed; some therein looked no further than at their own quiet, and to be rid of a troublesome employment; some that they might not be thought lovers of power and dignity; and some out of weakness and fear of the loss of some worldly enjoyment, which they have sufficiently repented and been sorry for since.

But how weak an act, and contrary to their trust it was, for those that professed themselves to be legislators, had made laws, and levied money by way of tax upon the people, as the parliament and supreme authority of the commonwealth of England; as clothed with their power, so easily, and without their knowledge or consent, whom they pretended to represent in parliament, to give up, or give away their power, which was none of theirs to give, but at the most to use for their good; to do it without debate or consideration in so weighty a case; to do it when the parliament was dissolved by themselves and the soldiers, and they but in the capacity of singular persons; to

[1] Bassy Mansell, in a letter to Edward Prichard, Esq., says about forty went with the speaker to resign their authority into the hands of Cromwell; and twenty-seven of the more violent of the opposition remained in the house, speaking to each other, and to the Lord in prayer.—THURLOE's *Collection, vol. I. p.* 637.

[2] They called one Moyer to the mace, and began to draw up protests.

[3] Colonel Goffe and Lieutenant Colonel White were the chief actors in this dissolution. The latter demanded what they did there, and was answered by the fanatical General Harrison, that they were seeking the Lord; "Then you may go and seek him somewhere else," (replied Cromwell's janizary,) "for to my knowledge he has not been here these twenty years." Upon which he called in the musqueteers, and put a conclusion to the reign of the saints.

give it up, as much as in them lay, into the hands of one single person, and that against a standing law then in being, not repealed: Was it not in effect to render all the people of England slaves? as would easily be granted by their own party, if they had so delivered to Charles Stuart; were ever men so weak, rash, and inconsiderate; so outwitted, or carried away with passion and spleen against their fellows, because they endeavoured to remove those grievances of tythes and the law, which the people of this nation groan exceedingly under? But might not the validity of this act of theirs be queried? If a jury should give up their verdict so, or deliver over their trust to others, would it be counted valid? But so it was, and so they did; and so an end of that parliament that sate five months and three days as the supreme power of the commonwealth of England, whom God preserve.

And so an end of this relation and discourse, with the calling to mind the saying of the psalmist, psalm xi. 4. 7. "If the foundations be destroyed, what can the righteous do? The righteous Lord loveth righteousness, his countenance doth behold the upright."

The Government of the Commonwealth of England, Scotland, and Ireland, and the Dominions thereto belonging, as it was publickly declared at Westminister the 16th Day of December, 1653, in the Presence of the Lords Commissioners of the Great Seal of England, the Lord Mayor and Aldermen of the City of London, divers of the Judges of the Land, the Officers of State and Army, and many other Persons of Quality; at which Time and Place his Highness, Oliver Lord Protector of the said Commonwealth, took a solemn Oath for observing the same.

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The parliament, or at least a majority of them, having become politically *felo de se*, by confessing their inability any longer to sustain the weight of the government, and resigning their delegated authority into the hands of Cromwell, it only remained that he should supply the place of this refractory puppet-shew by a more manageable set of performers. This gave rise to the Instrument of Government, by which new model, while in shew he assigned to the council and parliament a considerable share of authority, he scrupulously stipulated that the standing army should not be diminished without his consent, and by this single article palsied the effect of every apparent regulation in favour of freedom. Whitelocke gives some account of the form with which the new Lord Protector was installed.

" The late parliament having resigned their powers into the lord general's hands by a writing under their hands and seals, the lord general called a council of officers, and advised with them, and with other persons of interest in the nation, how this great burthen of governing England, Scotland, and Ireland, with the armies therein and the navy at sea, should be borne, and by whom. They, after several days seeking of God and advising this matter, resolved, That a council of godly, able, and discreet persons should be named, consisting of twenty-one, and that the lord general should be chosen Lord Protector of the three nations.

" His excellency the general, about three in the afternoon, came from Whitehall to the Chancery-court in his equipage.

" First went the commissioners of the great seal, then the judges and barons in their robes, after them the counsel of the commonwealth, then the lord mayor, aldermen, and recorder of London, after them the lord general, attended with the chief officers of the army; a chair of state was set in the Chancery-court, and the general stood on the left hand of it uncovered, till a large writing in parchment was read, containing the power with which his excellency was invested, and how he was to govern the three nations, and the oath to be taken by him. His excellency subscribed this writing in the face of the court, and had the oath given him by the Lord Commissioner Lisle, and after this his excellency sat down in the chair covered; then the commissioners delivered up the great seal to him, and the lord mayor his sword and cap, the which his excellency returned immediately again to him; then the court rose and they went back to Whitehall, the lord mayor himself uncovered carrying the sword before the Lord Protector; and coming into the banquetting house, Mr Lockier made an exhortation to them, and so the lord mayor, aldermen, and judges departed."—WHITELOCKE's *Memorials, p. 552.*

I. THAT the supreme legislative authority of the commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging, shall be and reside in one person, and the people assembled in parliament; the stile of which person shall be *Lord Protector of the Commonwealth of England, Scotland, and Ireland.*

II. That the exercise of the chief magistracy and administration of the government over the said countries and dominions, and the people thereof, shall be in the Lord Protector, assisted with a council; the number whereof shall not exceed twenty-one, nor be less than thirteen.

III. That all writs, processes, commissions, patents, grants, and other things, which now run in the name and style of the keepers of the liberty of England by authority of parliament, shall run in the name and style of the Lord Protector, from whom for the future shall be derived all magistracy and honours in these three nations; and shall have the power of pardons, (except in case of murder and treason) and benefit of all forfeitures for the public use; and shall govern the said countries and dominions in all things by the advice of the council, and according to these presents and the laws.

IV. That the Lord Protector, the parliament sitting, shall dispose and order the militia and forces both by sea and land, for the peace and good of the three nations, by consent of parliament; and that the Lord Protector, with the advice and consent of the major part of the council, shall dispose and order the militia for the ends aforesaid, in the intervals of parliament.

V. That the Lord Protector, by the advice aforesaid, shall direct in all things, concerning the keeping and holding of a good correspondence with foreign kings, princes, and states; and also, with the consent of the major part of the council, have the power of war and peace.

VI. That the laws shall not be altered, suspended, abrogated, or repealed, nor any new law made, nor any tax, charge, or imposition laid upon the people, but by common consent in parliament, save only as is expressed in the 30th article.

VII. That there shall be a parliament summoned to meet at Westminster upon the third day of September, one thousand six hundred fifty-four; and that successively a parliament shall be summoned once in every third year, to be accounted from the dissolution of the preceding parliament.

VIII. That neither the parliament to be next summoned, nor any successive parliaments, shall, during the time of five months, to be accounted from the day of their first meeting, be adjourned, prorogued, or dissolved with their own consent.

IX. That as well the next, as all other successive parliaments, shall be summoned and elected in manner hereafter expressed; that is to say, the persons to be chosen within England, Wales, the Isles of Jersey and Guernsey, and the town of Berwick

upon Tweed, to sit and serve in parliament, shall be and not exceed the numbe of four hundred. The persons to be chosen within Scotland, to sit and serve in parliament, shall be and not exceed the number of thirty. And the persons to be chosen to sit in parliament for Ireland, shall be and not exceed the number of thirty.

X. That the persons to be elected to sit in parliament from time to time for the several counties of England, Wales, the Isles of Jersey and Guernsey, and the town of Berwick upon Tweed, and all places within the same respectively, shall be according to the proportions and numbers hereafter expressed, that is to say,

For the county of Bedford, six; viz.
For the town of Bedford, one.
For the county of Bedford, five.

For the county of Berks, seven; viz.
For the borough of Abingdon, one
For the borough of Reading, one.
For the county of Berks, five.

For the county of Bucks, eight; viz.
For the town of Buckingham, one.
For the borough of Aylesbury, one.
For the borough of Wiccomb, one.
For the county of Bucks, five.

For the county of Cambridge and Isle of Ely, eight; viz.
For the town of Cambridge, one.
For the university of Cambridge, one.
For the Isle of Ely, two.
For the county of Cambridge, four.

For the county of Chester, five, viz.
For the city of Chester, one.
For the county of Chester, four.

For the county of Cornwall, twelve; viz.
For the borough of Dunishwet, otherwise Launceston, one.
For the borough of Truro, one.
For the borough of Penryn, one.
For the boroughs of Eastlow and Westlow, one.
For the county of Cornwall, eight.

For the county of Cumberland, three; viz.
For the city of Carlisle, one.
For the county of Cumberland, two.

For the county of Derby, five; viz.
For the town of Derby, one.
For the county of Derby, four.

For the county of Devon, twenty; viz.
For the city of Exeter, two.
For the borough of Plymouth, two.

For the boroughs of Dartmouth, Clifton, and Hardness, one.
For the borough of Totness, one.
For the borough of Barnstable, one.
For the borough of Tiverton, one.
For the borough of Honiton, one.
For the county of Devon, eleven.

For the county of Dorset, ten; viz.
For the borough of Dorchester, one.
For the boroughs of Weymouth and Melcomb-Regis, one.
For the borough of Lyme-Regis, one.
For the town and county of Pool, one.
For the county of Dorset, six.

For the county of Durham, three; viz.
For the city of Durham, one.
For the county of Durham, two.

For the county of York, twenty-two; viz.
For the city of York, two.
For the town of Kingston upon Hull, one.
For the borough of Beverley, one.
For the borough of Scarborough, one.
For the borough of Richmond, one.
For the town of Leeds, one.
For the town and parish of Halifax, one.
For the county of York, fourteen, to be chosen distinctly by the three Ridings, that is to say, for the West Riding, six; for the East Riding, four; for the North Riding, four.

For the county of Essex, sixteen; viz.
For the borough of Maldon, one.
For the borough of Colchester, two.
For the county of Essex, thirteen.

For the county of Gloucester and county of the city of Gloucester, nine; viz.
For the city of Gloucester, two.
For the borough of Tewksberry, one.
For the borough of Cirencester, one.
For the county and the county of the city of Gloucester, except the said city, five.

For the county of Hereford, six; viz.
For the city of Hereford, one.
For the borough of Leominster, one.
For the county of Hereford, four.

For the county of Hertford, seven; viz.
For the town of St Albans, one.
For the borough of Hertford, one.
For the county of Hertford, five.

For the county of Huntingdon, four; viz.
For the borough of Huntingdon, one.
For the county of Huntingdon, three.

For the county of Kent, eighteen; viz.
For the city of Canterbury, two.
For the city of Rochester, one.
For the borough of Maidstone, one.
For the port of Dover, one.
For the port of Sandwich, one.
For the borough of Queenborough, one.
For the county of Kent, eleven.

For the county of Lancaster, eight; viz.
For the borough of Preston in Alderness, one.
For the borough of Lancaster, one.
For the borough of Liverpool, one.
For the town and parish of Manchester, one.
For the county of Lancaster, four.

For the county of Leicester, six; viz.
For the borough of Leicester, two.
For the county of Leicester, four.

For the county of Lincoln, sixteen; viz.
For the city of Lincoln, two.
For the town of Boston, one.
For the borough of Grantham, one.
For the town of Stamford, one.
For the town of Great Grimsby, one.
For the county of Lincoln, ten.

For the county of Middlesex, six; viz.
For the city of Westminster, two.
For the county of Middlesex, four.

For the city of London, six.

For the county of Monmouth, three.

For the county of Norfolk, sixteen; viz.
For the city of Norwich, two.
For the town of Lynn-Regis, two.
For the town of Great Yarmouth, two.
For the county of Norfolk, ten.

For the county of Northampton, eight; viz.
For the city of Peterborough, one.
For the town of Northampton, one.
For the county of Northampton, six.

For the county of Nottingham, six; viz.
For the town of Nottingham, two.
For the county of Nottingham, four.

For the county of Northumberland, five; viz.
For the town of Newcastle upon Tyne, one.
For the town of Berwick, one.
For the county of Northumberland, three.

For the county of Oxford, eight; viz.
For the city of Oxford, one.
For the university of Oxford, one.
For the borough of Woodstock, one.
For the county of Oxford, five.

For the county of Rutland, two.

For the county of Salop, eight; viz.
For the town of Shrewsbury, two.
For the borough of Bruges, alias Bridgnorth, one.
For the borough of Ludlow, one.
For the county of Salop, four.

For the county of Stafford, six; viz.
For the city of Lichfield, one.
For the town of Stafford, one.
For the borough of Newcastle under Lyne, one.
For the county of Stafford, three.

For the county of Somerset, sixteen; viz.
For the borough of Taunton, two.
For the city of Bath, one.
For the city of Wells, one.
For the borough of Bridgwater, one.
For the county of Somerset, eleven.

For the city of Bristol, two.

For the county of Southampton, fourteen; viz.
For the city of Winchester, one.
For the town of Southampton, one.
For the town of Portsmouth, one.
For the isle of Wight, two.
For the borough of Andover, one.
For the county of Southampton, eight.

For the county of Suffolk, sixteen; viz.
For the borough of Ipswich, two.
For the borough of Bury St Edmunds, two.
For the borough of Dunwich, one.
For the borough of Sudbury, one.
For the county of Suffolk, ten.

For the county of Surrey, ten; viz.
For the borough of Southwark, two.
For the borough of Guilford, one.
For the borough of Rygate, one.
For the county of Surrey, six.

For the county of Sussex, fourteen; viz.
For the city of Chichester, one.
For the borough of Lewes, one.
For the borough of East Grinstead, one.
For the borough of Arundel, one.
For the borough of Rye, one.
For the county of Sussex, nine.

For the county of Westmoreland, two.

For the county of Warwick, seven; viz.
For the city of Coventry, two.
For the borough of Warwick, one.
For the county of Warwick, four.

For the county of Worcester, seven; viz.
For the city and county of the city of Worcester, two.
For the county of Worcester, five.

For the county of Wilts, fourteen; viz.
For the city of New Sarum, two.
For the borough of Marlborough, one.
For the borough of the Devizes, one.
For the county of Wilts, ten.

For the county of Anglesea, two.

For the county of Brecon, two.

For the county of Cardigan, two

For the county of Carmarthen, two.

For the county of Caernarvon, two.

For the county of Denbigh, two.

For the county of Flint, two.

For the county of Glamorgan, three; viz.
For the town of Cardiffe, one.
For the county of Glamorgan, two.

For the county of Merioneth, one.

For the county of Montgomery, two.

For the county of Pembroke, three; viz.
For the town of Haverford-West, one.
For the county of Pembroke, two.

For the county of Radnor, two.

The distribution of the persons to be chosen for Scotland, and the several counties, cities, and places within the same, shall be according to such proportions and number, as shall be agreed upon and declared by the Lord Protector and the major part of the council, before the sending forth writs of summons for the next parliament. The distribution of the persons to be chosen for Ireland, and the several counties, cities, and places within the same, shall be according to such proportions and number, as shall be agreed upon and declared by the Lord Protector and the major part of the council, before the sending forth writs of summons for the next parliament.

XI. That the summons to parliament shall be by writ under the great seal of England, directed to the sheriffs of the several and respective counties, with such alteration as may suit with the present government, to be made by the Lord Protector and his council; which the chancellor, keeper, or commissioners of the great seal, shall seal, issue, and send abroad, by warrant from the Lord Protector. If the Lord Protector shall not give warrant for issuing of writs of summons for the next parliament, before the first day of June, one thousand six hundred fifty-four, or for the triennial parliaments before the first day of August in every third year, to be accounted as aforesaid, that then the chancellor, keeper, or commissioners of the great seal for the time being, shall, without any warrant or direction, within seven days after the said first day of June, one thousand six hundred fifty-four, seal, issue, and send abroad writs of summons (changing therein what is to be changed as aforesaid) to the several and respective sheriffs of England, Scotland, and Ireland, for summoning the parliament to meet at Westminster the third of September next; and shall likewise, within seven days after the said first day of August in every third year, to be accounted from the dissolution of the precedent parliament, seal, issue, and send abroad several writs of summons, changing therein what is to be changed as aforesaid, for summoning the parliament to meet at Westminster the sixth of November in that third year. That the said several and respective sheriffs shall, within ten days after the receipt of such writs as aforesaid, cause the same to be proclaimed and published in every market-town within his county, upon the market-days thereof, between twelve and three of the clock; and shall then also publish and declare the certain day of the week and month for choosing members to serve in parliament for the body of the said county, according to the tenor of the said writ, which shall be on Wednesday five weeks after the date of the writ; and shall likewise declare the place where the election shall be made; for which purpose he shall appoint the most convenient place for the whole county to meet in, and shall send precepts for elections to be made in all and every city, town, borough, or place within his county, where elections are to be made by virtue of these presents, to the mayor, sheriff, or other head-officer of such city, town, borough, or place, within three, days after the receipt of such writ and writs, which the said mayors, sheriffs, and officers respectively, are to make publication of, and of the certain day for such elections to be made in the said city, town, or place aforesaid, and to cause elections to be made accordingly.

XII. That at the day and place of elections, the sheriff of each county, and the said mayors, sheriffs, bailiffs, and other head-officers within their cities, towns, boroughs, and places respectively, shall take view of the said elections, and shall make return into the Chancery within twenty days after the said elections of the persons elected by the

greater number of electors, under their hands and seals, between him on the one part, and the electors on the other part; wherein shall be contained, That the persons elected shall not have power to alter the government, as it is hereby settled in one single person and a parliament.

XIII. That the sheriff, who shall wittingly and willingly make any false return, or neglect his duty, shall incur the penalty of two thousand marks of lawful English money; the one moiety to the Lord Protector, and the other moiety to such persons as will sue for the same.

XIV. That all and every person and persons who have aided, advised, assisted, or abetted in any war against the parliament, since the first day of January, one thousand six hundred forty-one, (unless they have been since in the service of the parliament, and given signal testimony of their good affections thereunto) shall be disabled and be uncapable to be elected, or to give any vote in the election of any members to serve in the next parliament, or in the three succeeding triennial parliaments.

XV. That all such who have advised, assisted, or abetted the rebellion in Ireland, shall be disabled and uncapable for ever to be elected, or to give any vote in the election of any member to serve in parliament; as also all such who do or shall profess the Roman catholic religion.

XVI. That all votes and elections given, or made contrary, or not according to these qualifications, shall be null and void; and if any person, who is hereby made uncapable, shall give his vote for election of members to serve in parliament, such person shall lose and forfeit one full year's value of his real estate, and one full third part of his personal estate; one moiety thereof to the Lord Protector, and the other moiety to him or them who shall sue for the same.

XVII. That the persons who shall be elected to serve in parliament shall be such (and no other than such) as are persons of known integrity, fearing God, and of good conversation, and being of the age of one and twenty years.

XVIII. That all and every person and persons, seized or possessed to his use, of any estate, real or personal, to the value of two hundred pounds, and not within the aforesaid exceptions, shall be capable to elect members to serve in parliament for counties.

XIX. That the chancellor, keeper, or commissioners of the great seal, shall be sworn before they enter into their offices, truly and faithfully to issue forth and send abroad writs of summons to parliaments at the times and in the manner before expressed; and in case of neglect or failure to issue and send abroad writs accordingly, he or they shall, for every such offence, be guilty of high treason, and suffer the pains and penalties thereof.

XX. That in case writs be not issued out as is before expressed, but that there be a neglect therein fifteen days after the time wherein the same ought to be issued out by the chancellor, keeper, or commissioners of the great seal, that then the parliament shall, as often as such failure shall happen, assemble and be held at Westminster, in the usual place, at the times prefixed, in manner, and by the means hereafter expressed; that is to say, that the sheriffs of the several and respective counties, sheriffdoms, cities, boroughs, and places aforesaid, within England, Wales, Scotland, and Ireland, the chancellor, masters, and scholars of the universities of Oxford and Cambridge, and the mayor and bailiffs of the borough of Berwick upon Tweed, and other the places aforesaid respectively, shall, at the several courts and places to be appointed as aforesaid, within thirty days after the said fifteen days, cause such members to be chosen for their said several and respective counties, shrievedoms, universities, cities, boroughs, and places aforesaid, by such persons, and in such manner, as if several and respective writs of summons to parliament, under the great seal, had issued and been awarded according to the tenor aforesaid: That if the sheriff, or other persons authorized, shall neglect his or their duty herein, that all and every such sheriff and person authorized

as aforesaid, so neglecting his or their duty, shall, for every such offence, be guilty of high-treason, and shall suffer the pains and penalties thereof.

XXI. That the clerk, called *The Clerk of the Commonwealth*, in Chancery, for the time being, and all others who shall afterwards execute that office, to whom the returns shall be made, shall for the next parliament, and the two succeeding triennial parliaments, the next day after such return, certify the names of the several persons so returned, and of the places for which he and they were chosen respectively unto the council, who shall peruse the said returns, and examine whether the persons so elected and returned be such as is agreeable to the qualifications, and not disabled to be elected; and that every person and persons being so duly elected, and being approved of by the major part of the council to be persons not disabled, but qualified as aforesaid, shall be esteemed a member of parliament, and be admitted to sit in parliament, and not otherwise.

XXII. That the persons chosen and assembled in manner aforesaid, or any sixty of them, shall be and be deemed the parliament of England, Scotland, and Ireland, and the supreme legislative power to be and reside in the Lord Protector and such parliament, in manner herein expressed.

XXIII. That the Lord Protector, with the advice of the major part of the council, shall at any other time than is before expressed, when the necessities of the state shall require it, summon parliaments in manner before expressed, which shall not be adjourned, prorogued, or dissolved without their own consent, during the first three months of their sitting; and in case of future war with any foreign state, a parliament shall be forthwith summoned for their advice concerning the same.

XXIV. That all bills agreed unto by the parliament shall be presented to the Lord Protector for his consent; and in case he shall not give his consent thereto within twenty days after they shall be presented to him, or give satisfaction to the parliament within the time limited, that then, upon declaration of the parliament, that the Lord Protector hath not consented nor given satisfaction, such bills shall pass into and become laws, although he shall not give his consent thereunto; provided such bills contain nothing in them contrary to the matters contained in these presents.

XXV. That Philip, Lord Viscount Lisle, Charles Fleetwood, Esquire, John Lambert, Esq., Sir Gilbert Pickering, Baronet, Sir Charles Wolseley, Baronet, Sir Anthony Ashley Cooper, Baronet, Edward Montagu, Esquire, John Desborow, Esquire, Walter Strickland, Esquire, Henry Laurence, Esquire, William Sydenham, Esquire, Philip Jones, Esquire, Richard Major, Esquire, Francis Rous, Philip Skippon, Esquires, or any seven of them, shall be a council for the purposes expressed in this writing; and upon the death or other removal of any of them, the parliament shall nominate six persons of ability, integrity, and fearing God, for every one that is dead or removed, out of which the major part of the council shall elect two, and present them to the Lord Protector, of which he shall elect one: And in case the parliament shall not nominate within twenty days after notice given unto them thereof, the major part of the council shall nominate three, as aforesaid, to the Lord Protector, who out of them shall supply the vacancy; and until this choice be made, the remaining part of the council shall execute as fully in all things as if their number were full. And in case of corruption or other miscarriage in any of the council in their trust, the parliament shall appoint seven of their numbers, and the council six, who, together with the lord chancellor, lord keeper, or commissioners of the great seal, for the time being, shall have power to hear and determine such corruption and miscarriage, and to award and inflict punishment as the nature of the offence shall deserve; which punishment shall not be pardoned or remitted by the Lord Protector. And in the interval of parliaments, the major part of the council, with the consent of the Lord Protector, may, for corruption or other miscarriage as

aforesaid, suspend any of their number from the exercise of their trust, if they shall find it just, until the matter shall be heard and examined as aforesaid.

XXVI. That the Lord Protector, and the major part of the council aforesaid, may, at any time before the meeting of the next parliament, add to the council such persons as they shall think fit, provided the number of the council be not made thereby to exceed one and twenty, and the quorum to be proportioned accordingly by the Lord Protector and the major part of the council.

XXVII. That a constant yearly revenue shall be raised, settled, and established for maintaining of ten thousand horse and dragoons, and twenty thousand foot in England, Scotland, and Ireland, for the defence and security thereof, and also for a convenient number of ships for guarding of the seas; besides two hundred thousand pounds per annum for defraying the other necessary charges for administration of justice, and other expences of the government; which revenue shall be raised by the customs, and such other ways and means as shall be agreed upon by the Lord Protector and council, and shall not be taken away or diminished, nor the way agreed upon for raising the same altered, but by the consent of the Lord Protector and the parliament.

XXVIII. That the said yearly revenue shall be paid into the public treasury, and shall be issued out for the uses aforesaid.

XXIX. That in case there shall not be cause hereafter to keep up so great a defence at land or sea, but that there be an abatement made thereof, the money which will be saved thereby shall remain in bank for the public service, and not be employed to any other use but by the consent of parliament; or, in the intervals of parliament, by the Lord Protector and major part of the council.

XXX. That the raising of money for defraying the charge of present extraordinary forces both at land and sea, in respect to the present wars, shall be by consent in parliament, and not otherwise; save only that the Lord Protector, with the consent of the major part of the council, for preventing the disorders and dangers which may otherwise fall out both at sea and land, shall have power, until the meeting of the first parliament, to raise money for the purposes aforesaid, and also to make laws and ordinances for the peace and welfare of these nations, where it shall be necessary, which shall be binding and in force until order shall be taken in parliament concerning the same.

XXXI. That the lands, tenements, rents, royalties, jurisdictions, and hereditaments, which remain yet unsold or undisposed of by act or ordinance of parliament, belonging to the commonwealth (except the forests and chaces, and the honours and manors belonging to the same; the lands of the rebels in Ireland, lying in the four counties of Dublin, Cork, Kildare, and Katerlaugh, the lands forfeited by the people of Scotland in the late wars, and also the lands of papists and delinquents in England, who have not yet compounded) shall be vested in the Lord Protector, to hold to him and his successors, Lord Protectors of these nations, and shall not be aliened but by consent in parliament. And all debts, fines, issues, amerciaments, penalties, and profits, certain and casual, due to the keepers of the liberties of England, by authority of parliament, shall be due to the Lord Protector, and be payable into his public receipt, and shall be recovered and prosecuted in his name.

XXXII. That the office of the Lord Protector over these nations shall be elective, and not hereditary; and upon the death of the Lord Protector, another fit person shall be forthwith elected to succeed him in the government, which election shall be by the council; who, immediately upon the death of the Lord Protector, shall assemble in the chamber where they usually sit in council, and having given notice to all their number of the cause of their assembling, shall, being thirteen at least present, proceed to the election, and before they depart out of the said chamber, shall elect a fit person to succeed in the government, and forthwith cause proclamation thereof to be made in all the three nations as shall be requisite: And the person that they or the major part of

them shall elect as aforesaid, shall be and shall be taken to be Lord Protector over these nations of England, Scotland, and Ireland, and the dominions thereto belonging; provided that none of the children of the late king, nor any of his line or family, be elected to be Lord Protector or other chief magistrate over these nations, or any of the dominions thereto belonging. And until the aforesaid election be past, the council shall take care of the government, and administer in all things as fully as the Lord Protector, or the Lord Protector and council are enabled to do.

XXXIII. That Oliver Cromwell, captain-general of the forces of England, Scotland, and Ireland, shall be, and is hereby declared to be, Lord Protector of the commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging for his life.

XXXIV. That the chancellor, keeper, or commissioners of the great seal, the treasurer, admiral, chief governors of Ireland and Scotland, and the chief justices of both the benches, shall be chosen by the approbation of parliament, and in the intervals of parliament, by the approbation of the major part of the council, to be afterwards approved by the parliament.

XXXV. That the Christian religion contained in the scriptures be held forth and recommended as the public profession of these nations; and that, as soon as may be, a provision less subject to scruple and contention, and more certain than the present, be made for the encouragement and maintenance of able and painful teachers for instructing the people, and for discovery and confutation of error, heresy, and whatever is contrary to sound doctrine; and that until such provision be made, the present maintenance shall not be taken away nor impeached.

XXXVI. That to the public profession held forth, none shall be compelled by penalties or otherwise, but that endeavours be used to win them by sound doctrine, and the example of a good conversation.

XXXVII. That such as profess faith in God by Jesus Christ (though differing in judgment from the doctrine, worship, or discipline, publickly held forth) shall not be restrained from, but shall be protected in the profession of the faith and exercise of their religion, so as they abuse not this liberty to the civil injury of others, and to the actual disturbance of the public peace on their parts; provided this liberty be not extended to popery or prelacy, nor to such as, under the profession of Christ, hold forth and practise licentiousness.

XXXVIII. That all laws, statutes, ordinances, and clauses in any law, statute, and ordinance to the contrary of the aforesaid liberty shall be esteemed null and void.

XXXIX That the acts and ordinances of parliament, made for the sale or other disposition of the lands, rents, and hereditaments of the late king, queen, and prince, of archbishops and bishops, &c., deans and chapters, the lands of delinquents and forest lands, or any of them, or of any other lands, tenements, rents, and hereditaments belonging to the commonwealth, shall no way be impeached or made invalid, but shall remain good and firm: And that the securities given by act and ordinance of parliament for any sum or sums of money by any of the said lands, the excise, or by any other public revenue, and also the securities given by the public faith of the nation, and the engagement of the public faith for satisfaction of debts and damages, shall remain firm and good, and not be made void and invalid upon any pretence whatsoever.

XL. That the articles given to or made with the enemy, and afterwards confirmed by parliament, shall be performed and made good to the persons concerned therein; and that such appeals as were depending in the last parliament for relief concerning bills of sale of delinquents estates, may be heard and determined the next parliament, any thing in this writing, or otherwise to the contrary, notwithstanding.

XLI. That every successive Lord Protector over these nations shall take and subscribe a solemn oath in the presence of the council, and such others as they shall call

to them, that he will seek the peace, quiet, and welfare of these nations, cause law and justice to be equally administred, and that he will not violate or infringe the matters and things contained in this writing; and in all other things will, to his power and to the best of his understanding, govern these nations, according to the laws, statutes, and customs.

XLII. That each person of the council shall, before they enter upon their trust, take and subscribe an oath, that they will be true and faithful in their trust, according to the best of their knowledge; and that in the election of every successive Lord Protector, they shall proceed therein impartially, and do nothing therein for any promise, fear, favour, or reward.

The Oath taken by his Highness Oliver Cromwell, Lord Protector.

Whereas the major part of last parliament (judging that their sitting any longer, as then constituted, would not be for the good of this commonwealth) did dissolve the same, and by a writing under their hands, dated the twelfth day of this instant December, resign unto me their powers and authorities; and whereas it was necessary thereupon, that some speedy course should be taken for the settlement of these nations upon such a basis and foundation, as, by the blessing of God, might be lasting, secure property, and answer those great ends of religion and liberty so long contended for; and upon full and mature consideration had of the form of government hereunto annexed, being satisfied that the same, through divine assistance, may answer the ends aforementioned; and having also been desired and advised, as well by several persons of interest and fidelity in this commonwealth, as the officers of the army, to take upon me the protection and government of these nations, in the manner expressed in the said form of government, I have accepted thereof, and do hereby declare my acceptance accordingly: And do promise, in the presence of God, that I will not violate and infringe the matters and things contained therein, but, to my power, observe the same, and cause them to be observed; and shall, in all other things, to the best of my understanding, govern these nations according to the laws, statutes, and customs, seeking their peace, and causing justice and law to be equally administred.

O. CROMWELL.

Oliver Cromwell, Captain General of all the forces of this commonwealth, and now declared Lord Protector thereof, did this 16th day of December, 1653, sign this writing, and solemnly promise, as is therein contained, in presence of the lords commissioners of the great seal of England, who administered the said oath, and of the lord mayor and aldermen of the city of London, divers of the judges of the land, the officers of state and army, and many other persons of quality.

Sedition Scourg'd; or a View of that rascally and venomous Paper, intituled, "A Charge of High-Treason exhibited against Oliver Cromwell, Esq. for several Treasons by him committed." (1653.)

All those who considered the conduct of Cromwell, were by no means disposed to acquiesce in the prudent reasoning employed in a preceding tract. It seems there was found some friend either of loyalty or of freedom, or of both, bold enough to appeal to the tribunal of the public against the tyrannical usurpation of the Protector, and to impeach him of high treason. This called forth the following defence, in which the extreme position is maintained, that the single person into whose hands the supreme power has been thrown by accident, or acquired by force of arms, becomes the true representative of the people, and is therefore entitled to govern them as he lists, even as a physician directs what is most fit for his patient. The charge and defence appear to have been published shortly after the dissolution of that very singular assembly, popularly called "Praise-God Barebone's Parliament." The author was perhaps Major John Wildman, once a great friend of Cromwell, but so much his enemy after he assumed supreme power, that he was seized and imprisoned while in the act of drawing up a declaration against him. Cromwell did not however think it prudent to extend the punishment of this zealous republican beyond a short imprisonment.

THE invention of printing was doubtless at the first one of the most laudable and profitable discoveries that could have been made by man. By it letters, which had long been under the rubbish of barbarism, were restored to their former lustre, and conveyed through Europe; by it the gospel, sullied and blemished by the corruptions of popery (God in his wisdom so ordaining) after it was a little more purely taught, became to be dispersed, maugre Rome, and her superstitions; by it there is not only better communication of knowledge for the present, but greater hopes of preserving it for the future: And yet so unlucky hath it been, that since the mystery of it grew common, and the permission in a manner general, it hath been a pestilent midwife to these accursed brats, error in the church, and sedition in the state. Nor indeed, if a man may dare to speak it, are the governors themselves wholly blameless for such inconveniences. For printing being ever accounted among the regalia of every government, as well as coining, &c. it should be looked on with such a jealous and strict eye; there should be such a circumspect care of prevention, and such painful pursuance of misdemeanors, as would be required against the most dangerous crimes. For libelling (which is never better assisted than by this way) hath not only abroad in all ages found its several severities, but even at home is felony at common law, (Coke's Instit. part 3. chap. 76.) for it may not only ruin the reputation of a private man, but introduce tumult and combustion in the state it self. And if the inward man be once disturbed, the outward will be, and if the imagination be troubled, the hands will soon be at work.

But I have digressed in the very beginning, though I think not so far but that those that neglect it may find the inconveniences.

Amongst the other things which have been spawned in this age, both to the dishonour of our Maker, and the disturbance of mankind, there was lately published, and (as much as lay in them) dispersed a piece of paper with this title,

"A Charge of High Treason against Oliver Cromwell, Esq. for several Treasons by him committed."

A paper so sottishly impudent, and so ridiculously malicious, that were but the generality of the people in their senses, and not mad with desire of novelty and prepossession, it were so unworthy the taking notice of, that there were no greater confutation of it than to read it. But since that it happens in matters of this nature, that by the privateness of dispersion, and withall their aiming at great and eminent persons, they are conceived to contain in themselves somewhat considerable and of important consequence, I thought it worth my pains to give it a perusal, and not to let it bark without a whip at the tail. For though Bridewell and the pillory may reach the offenders, and the fire the papers, yet it is only reason that can encounter their folly, and sober debate that must overthrow their madness.

And since the thing talks big, and threatens an impeachment of high treason, we shall take the pains once for all to teach him what it is, and shew him how much he misses of his aim and application.

Treason, *crimen læsæ majestatis*, as they say, or any offence, which, aiming secretly at the lives of the supreme governors for the time being, or at the government it self, was in the several times made capital, but ever varied and altered according to the variations and turns of government. That which concerned the generality of government, as coining of money, killing of a justice upon the bench, &c. which concerns the very being of the publick peace, remaining firm, the other moveable and alterable, as, for example, by the 25 of Edw. III. chap 2. confirmed and quoted by many other statutes, 'tis treason to compass the death of the king, queen, or prince. This the act of July 17th, 1649, expressly repeals, enacting it treason to do any thing against the form of the commonwealth; but for coining, &c. of money, confirms it. Nor indeed does this want its reason, for the persons and governments determining and ceasing, their protections also cease, and consequently the obedience in the subject: For how can a man offend against a thing that is not in being? but for those material supporters of government, that is to say, for preserving the laws, traffick among the people, and the like, they are things so necessary and immutable, that if they once change or perish, a whole nation changes or perishes with them; whereas for the outward form of government, it hath its several changes and shapes, according to the variation of times and revolution of circumstances.

We shall have occasion to apply this in the following discourse; to say only thus much for the present, that the Lord General, according to your own positions, hath done nothing against the act of Edw. III., and, according to the positions of reason, as little against the act of July, 1649, for he only changed the governors, but the form of the republick it self is preserved, and by this means establish'd; so that here we find him not to be so great a traitor, but I believe, upon view of the whole, a person quite the contrary.

For the people whom he calls lords, he must be taught, that though the people be the primary cause of government, and the end thereof, and may, by their consent or disapprobation, either ratify or vacate any form thereof, yet for the administration and execution of government, it's a thing the practice whereof is not feasible by the people, and the effects of it, if it were endeavour'd, would be monstrous beyond all imagination. For to imagine that all the people of this nation, of so many different humours, interests, and parties, would consult together as a few men, is as impossible as that all the letters of a printing-house, carelessly cast abroad, should without any other assistanc

compose this book. But if the people be the end of government, that which most aims at the good of the people comes the nearest that end; and since the people in regard of the variety of humours, can neither well determine nor consent about the circumstances of their own safety, he certainly doth a very laudable action, that turns doubtful emergencies and dangerous junctures of time into their advantage; it is as true as any thing that is said, *salus populi suprema lex;* but to continue on the metaphor, 'tis the physician, that is to say, the wise man in power, that must be the judge, not the patient, that is to say, the multitude in danger. So, that by priority of cause, we find the people lords remote and lords intended, but secondarily and in effect, we find the governors lords effective and executive, the being of the one being metaphisical and abstracted, the being of the other natural and active. So that whoever offends against the magistrate in being, trespasses against the people themselves in the person of their magistrates, the majesty of the magistrate being so join'd and allied to the majesty of the people, that as the statuary did his own picture in Minerva's in such a manner, that if there were the least injury offered to his, it would also blemish that of the goddess; even so, whoever blemishes a governor blemishes also the people governed, governors being the understanding, the discourse, and the defence of the people.

But of all men he hath certainly made a very indiscreet choice in fixing upon this person whom he hath chosen; a man that, as he hath already acquired the reputation of one of the greatest captains of this time, or, for any thing that I know, that ever was, so doubtless he will send down to posterity a name as dear and venerable for the love of his country as any man of any nation. The hazards and exploits which he did in the first war are very well known, though God had not at that time lifted him up to this eminency; yet he that had seen him at Marston-Moor would have said our liberties were not a little obliged to him. Wonderful was the presence of God with him at the defeat of Hamilton: And when once our liberty was restored, since we could not defend ourselves without offending, how soon he over-ran Ireland and Scotland with his conquests is unnecessary to tell here when all Europe stands amazed at it. Yet even this man, that in all the offices, both of a citizen and soldier, hath given such faithful devoirs to his country, while he is covered with laurels, and makes us enjoy the real fruit of his victories, must have his soul pierced and transfix'd through with all the venomous ugly slanders that the devil can put into the mouth of a canker'd malice.

But general returns are like general criminations, such as will neither satisfy nor fasten. To lay open therefore the importunate malice of this rascally paper, and withall the better to detect the vanity and insufficiency of his pretences, you may take it thus with some brief animadversions, because the main things he insists on we have answered before; and for the form of it we shall not much trouble ourselves, since it is as easy villainously to frame a libel in the form of an indictment, as it is atheistically, in the form of a catechism: Examples of both which we have had within these few days.

A Charge of High Treason exhibited against Oliver Cromwell, Esq. for several Treasons by him committed.

For that he, the said Oliver Cromwell, not having the fear of God before his eyes, but being instigated by the devil, did traiterously and villainously, by force of arms, dissolve the late parliament of the lords of the people of England, who they the said parliament did represent as the supreme authority of the said lords the people of England; and for that he, the said Oliver Cromwell, being a hired servant to serve the lords

the people of England in the conduct of them the said lords the people of England's forces, against their enemies of their the said people's liberties, rights, and privileges, and, notwithstanding the high trust reposed in him the said Oliver Cromwell so to do, yet the said Oliver traiterously conspired many times before the said Oliver did dissolve the said parliament, by force of arms wickedly and traiterously, thereby to render the said lords the people of England utterly uncapable for ever to recover their liberties, just rights, and privileges, and did become master of all the strong-holds, arms, forces, magazines, armies, navies, and made and still doth make no other use of them, but to over-awe and force the lords the people of England aforesaid, to an obedience and compliance to his the said Oliver Cromwell's tyrannical will and pleasure, contrary to the intent of the trust reposed in him, and contrary to all the solemn engagements and declarations of him the said Cromwell, which did invite the foresaid lords the people of England to a chearful contribution of their assistance to the carrying on of the war against the common enemies of their liberties, just rights, and privileges: And further, that he the said Oliver Cromwell did, in an unheard of manner, summon and require, upon great penalties, divers persons and members of the lords the people of England, to take upon them the supreme authority of this commonwealth, and accordingly upon the 4th of July they the aforesaid persons summoned, by virtue of the aforesaid traitor's summons, did appear at Whitehall, in or nigh the city of Westminster, in the county of Middlesex, where they received an instrument of parliament, containing these words: "I, Oliver Cromwell, do appoint you (meaning the aforesaid persons summoned by his warrant, to make their appearance there, and then as aforesaid, that is to say, on the 4th day of July, 1653, at Whitehall) to be the supreme authority of this nation, and all territories or dominions thereunto belonging;" and notwithstanding he the said Oliver in so doing did commit the highest of treasons that could be committed; for that he the said Oliver did not intreat the lords the people of England to elect their representative according to their indubitable rights, and that he would with their army stand by them as servants, as in duty he and they (viz. the army) ought to have done; the which if they had done, their late act of dissolving the parliament had not been treason, because they (viz. the late parliament) contrary to their trust, endeavoured to make themselves perpetual, contrary to the law of the land, and the intent of the trust reposed in them; and after the so many demands by petitions of the lords the people, for them to surrender their power to a new representative equally chosen; nor for that the said Oliver Cromwell did not restore the people's rights in election, upon the dissolving of the parliament, he hath made that to be treason, which otherwise would not have been treason.

For the dissolution of the late parliament there hath been enough said to and fro about it, and it hath, both by the declaration of the army and other pieces writ, besides the confession of the grand politick informer himself, and this very pamphleteer (though conditionally) as may appear by the last line of this paragraph. The necessity of which thus appearing I shall mention no otherwise, but only observe thus much in passing, that it is not the dissolving of the late parliament that sticks in their stomachs, for that they are satisfied well enough with, but they are unsatisfied because the nation is not turned wild into an irregular and dangerous liberty, and consequently permitted either to return into new quarrels, or reduced under its former tyranny. For certainly no man would else, considering the different impressions that the late civil wars have made upon the minds of the people, permit them to a choice of their own governors, they being so divided and discomposed as for the present they are, and working and being unquiet as the sea after a storm.

For the general being a hired servant to the people of this nation, 'tis very true, as well as every magistrate; since in one relation they are servants, in another, masters

servants in intention, masters in execution, since without masters they could not serve, and 'tis but the same thing under a different notion.

For keeping of arms in his hands, and preventing such an extravagant election as the pamphlet aims at, is as much as to say in plain English, that he made choice of a very good way for the security of the people, and took care to put it in execution. For the former way being so dangerous and the course chosen, which since was effected, and which we repent not of, it had been madness to have endeavoured an end, and yet neglected the means, or, to say better, put the same means into other hands for contrary ends: and therefore, since, if the people had made use of that freedom, there had been little reason to have trusted the elected, without great consideration of their persons and garbling; and that this was a business which could not be done but by a third power, it was rather thought fit to stay till he that can stop the raging of the sea, would quiet the people's minds, to select some particular worthy persons of good life and conscience out of the several counties, to that high and supreme trust.

'Tis also false, that they were summoned under great penalties, when the very summons itself, I cannot tell how printed at that time, speaks little more than a bare summons or intimation; and for the reason of delivering a parchment sealed, there hath been so much said of that matter in the Grand Politique Informer better Informed, p. 10, 11, that it is needless to transcribe any thing hither.

When they were invested with this power, and begun to settle to the business, that is, advancing the gospel in its purity, the reglement of the law, stating the accounts of the nation and those corruptions which have infected all professions, they had turned their back from the plough, if upon a few seditious addresses of a rabble of apprentices, and no-body knows what, they had deserted so great a beneficial work, and to have suffered things to relapse into their former confusion.

Before I have done with this paragraph, I must needs admire the acumen of the man, who says that my lord hath made that treasonable, which otherwise would not have been treason. This is a subtilty above Scotus himself, a treason conditional, *ex post facto*, whereas our law ever adjudges treason out of the matter of fact it self, not by actions after the fact; and in moral things, the act is judged good or bad according to present circumstantiation, not following contingencies or subsequent actions. But look whither he hath brought himself: he grants the dissolving of the late parliament not to be criminal, but only by consequence, which consequence is invalid, and so justifies the action, and so confutes all he had said before.

But further, he, the said Oliver Cromwell, having not the fear of God before his eyes, and being instigated by the devil, did contrive, or cause to be contrived, a certain book, called A Copy of Draughts of Acts of Parliament, out of which this mock parliament are to take their lessons, and out of which the late act of marriages was taken, and in which is the invention of unheard-of cruel torment, as well for those that offend or oppose him or his confederates in this unheard-of tyranny, as for the transgressors of the laws of civil societies.

Par. 2. For this book of the laws which he talks of, he is to be acquainted that my lord general had not the least hand in this book, for the late parliament called a company of select gentlemen together, to consider the abuses and corruptions of the law. These gentlemen, after long and patient debate, found the reformation of a great many other things very needful, and, according to the directions of the parliament, drew up several means of redress, which were entered into a book and presented ready for debate; and what necessity there was for taking away some corruptions of the law, not the law itself, is a thing so visible that it needs not be insisted on.

For the act of marriages, which this man seems much to quarrel at, it would be known that marriage, being the means of the propagation of the people, and consequently of the continuance and preservation of government, ought by all wise statists to be

looked upon as the greatest concernment of it; because that, it being a means of succession, and the only direction of inheritance, there depend so many formal circumstances on it, and so many inconveniences are prevented by a publick solemnization thereof, as there is scarce in any other thing belonging to a commonwealth. And that this should be put into the hands of the civil magistrate, whose power, *circa sacra*, we shall not now meddle with, is neither so strange nor ridiculous, since the essence of marriage being promised, and that promise fit to be known and registered in order to legitimation, and prevention of stealths and carryings away, they cannot be any person fitter than the civil magistrate. And we shall leave it proposed to the divines, whether there be any thing in scripture, or by direct consequence from scripture, that restrains the solemnization of marriages to the ministry, but that it is rather a devise set a foot by the popes to enrich their clergy, at the time that Christianity became to be clouded and infected with superstition.

And further, the said Cromwell hath, by himself and others, forced this mock parliament to take away the body of our laws that hath been our bulwark and defence, and only weapons counted against absoluteness, to the end and intent that thereby the lords the people of England may be subject to the will, pleasures, and intended tyranny of him the said Cromwell: all which considered, we humbly pray the lords, the people of England, that justice may be had against this abominable traytor and enemy to God and mankind, Oliver Cromwell.

Par. 3. This charge were a heavy one indeed if it were true, but 'tis so monstrously false, as there needs not much to be spoken unto it, for what benefit could the general make by alteration of the laws, since in every action every man will propose to himself one thing or other? or where did he ever appear in any action or any debate tending this way? But to matter of fact; the laws (which he calls our bulwark and defence) are so far from being taken away, that the superfluities and inconveniences, the tedious and vexatious proceedings are only taken away, to as much prejudice to the life of the law it self, as 'tis to purge a gross body of its noxious and corrupt humours.

And to the end that this may be effected, it is desired, that, upon the 16th of October, 1653, being the next coming, that all the people of England would as one man, as well masters sons as servants, repair into every country town, or some other convenient place within England and Wales, appear armed with such weapons of war as with conveniency they can, then and there to elect and chuse such and so many persons as the people of the respective counties, cities, and boroughs, want to chuse to represent them in parliament.

And further we do hereby declare, that such of the army as shall join in this our shaking off this yoke, shall be received into the favour of the lords, the people of England, and be continued in their trusts of arms; for our encouragement, we know this of old, since man was placed upon the earth, that the triumphing of the wicked is but short, and the joy of the hypocrite but for a moment; for a long time their tabernacle have only prospered, though they be robbers and such as provoke God, and that make the upright man the greatest sufferer, yet for all this the multitude of their lies shall not make all men hold their peace.

The close of this business shews the aim of the writer of it, that is to say, a double sedition, both of the people and soldiery, so extravagant in the proposition to the people, that it hath produced no other effect than the remembrance of the bare proposition of his folly; so foolish in that to the soldiery, that it is not like to be entertained with any thing by them but laughter. For my part, to either of them, I have only this to say; That since it hath pleased the Lord to make his own arm bare, and to conduct us through all these changes and turns of Providence, into this estate of liberty wherein we now stand, it behoves us, as men following the meek and gentle doctrine of Christ himself, not only to walk in humility and obedience to the present powers, who are of

God, but also to be duly and sincerely thankful to that hand which hath taken off from our necks that iron yoke of monarchy, and put us into that condition of liberty, which we and our posterity, if we can but know our own happiness, are likely, with God's blessing, to enjoy.

A Healing Question propounded and resolved upon Occasion of the late publique and seasonable Call to Humiliation, in order to Love and Union amongst the honest Party, and with a Desire to apply Balsome to the Wound before it become incurable. By Henry Vane, Knight.

London: Printed for T. Brewster, at the Three Bibles, at the West End of Pauls. 1660.

This was a work of the celebrated Sir Henry Vane the younger, who, from the moment that Cromwell set up for supremacy, acted against him upon every occasion; so that the Protector had cause more than once to repeat his celebrated apostrophe, "The Lord deliver me from Sir Henry Vane." This pamphlet appeared in March, 1665, and Ludlow has given us the following account of the circumstances which followed the publication:—"Sir Henry Vane, according to his promise, being come to his house near Charing-cross, the council sent a messenger thither to require him to attend them, which he did, and was there charged by Cromwell with disaffection to the government, which he had demonstrated by a late writing published by him, with a seditious intention. The paper was called "A Healing Question proposed and resolved," and contained the state of our controversie with the king, the present deviation from that cause for which we engaged, and the means to unite all parties in attaining the accomplishment of it. It was written upon an invitation given in a declaration published by Cromwell for a general fast, wherein it was desired that the people would apply themselves to the Lord, to discover that Achan which had so long obstructed the settlement of these distracted nations. When it was finished he shewed it to Lieut-Gen. Fleetwood, who, seeming to approve of it, desired to take it with him, and promised to communicate it to Cromwell upon the first opportunity that should be offered. Sir Henry did not disown either his dissatisfaction to the state of affairs, or the publication of the discourse before-mentioned. So that Cromwell thought fit to require him, by a day limited, to give security not to act against him. Which time being expired, he appeared again before the council, and delivered into Cromwell's own hand another paper, containing the reasons of his disapproving the present usurpation, and a friendly advice to him to return to his duty, with some justification of his own conduct with relation to the public. But, notwithstanding all this, and divers reasons alledged by him to excuse himself from giving the demanded security, he was sent prisoner to Carisbrook Castle, in the Isle of Wight."—Ludlow's *Memoirs, Edin.* 1751, II. 122.

Sir Henry Vane was soon after released from his confinement; but continued to the last an opposer of Cromwell. The tract seems to have been reprinted during the convulsions which preceded the Restoration. The political scheme of Sir Henry, about this period, seems to have been an oligarchy of the self-named saints. We have the following picturesque account of his plan and followers from a contemporary:—"Sir H. Vane, as I lately told you, hath unriddled to the house and the nation the long concealed mystery of the kingdom of Christ, which is, it seems, a co-ordinate power put into the hands of a few men truly religious, that shall restrain in the carnal forces of the present and future parliaments, and command that arm of flesh, the soldiery. 'Two troops,' he saith, 'support this government, religion and liberty; of the former ought our principal care to be; and those seers of Israel ought in all things to have the pre-eminence. They must not be many, nor ought the charge to be imparted to any on whom there

lays a known guilt. Too great is the burthen on a single person, because liable to temptation, if not supported by omnipotence, but a few, a very few.'—Which we interpret reducing the thirty he formerly thought of to three; of which Lambert is doubly incapable, first as a soldier, then as guilty of dissolving the parliament, and advancing the late tyrant, the major-generals, &c. Of the Fifth-monarchy-men, I have not the same apprehension I discern in you and others; all I think is, they are like women, whose tongue is their best weapon, therefore unlike to prevail: But should that happen by any accident (which really I cannot foresee) then, with a woman's malice, would those cowardly wretches leave no mischief unattempted on the conquered party. True it is, there may be a Syndercombe, or perhaps a hundred of the same obstinate temper, but the generality of them are the basest, the most despicable part of mankind: And such their fashion of canting and juggling, that, on my conscience, they many of them cheat themselves into an opinion that Christ himself will personally come to subdue their enemies without one drawn sword. Should I tell you of my Lord Pembroke, the chief justice, St John's wife, and many others, who assemble three times each week, and sing to God, and each other, extempory, in rhymes, six hours together, you would believe me as mad as they. They ground it on a text in the Revelations, Michael fighting with the devil; there was silence in heaven half an hour, and after that songs. Some congregations therefore blaspheme, curse, &c. during that space; then the first who is inspired is accounted the good angel, the rest cease; he or she immediately sing. These are sad truths; yet from these men I do not expect any deep plots more than to dine or sup the week round with the wealthiest sort of the congregation, to get old clothes, and some weekly benevolence."—CLARENDON'S *State Papers*, III. 505.

A Healing Question propounded and resolved upon Occasion of the late publique and seasonable Call to Humiliation, in order to Love and Union amongst the honest Party, and with a Desire to apply Balsome to the Wound before it become incurable.

THE question propounded is, What possibility doth yet remain (all things considered) of reconciling and uniting the dissenting judgments of honest men within the three nations, who still pretend to agree in the spirit, justice, and reason of the same good cause, and what is the means to effect this?

Answ. If it be taken for granted (as on the magistrates part, from the ground inviting the people of England and Wales to a solemn day of fasting and humiliation, may not be despaired of) that all the dissenting parties agree still in the spirit and reason of the same righteous cause, the resolution seems very clear in the affirmative; arguing not only for a possibility, but a great probability hereof, nay a necessity daily approaching neerer and neerer to compel it, if any or all of the dissenting parties intend or desire to be safe from the danger of the common enemy, who is not out of work, though at present much out of sight and observation.

The grounds of this are briefly these: First, the cause hath still the same goodness in it as ever; and is or ought to be as much in the hearts of all good people that have adhered to it; it is not less to be valued now, then when neither blood nor treasure were thought too dear to carry it out and hold it up from sinking; and hath the same omnipotent God, whose great name is concerned in it, as well as his peoples outward safety and welfare; who knows also how to give a revival to it when secondary instruments and visible means fail, or prove deceitful.

Secondly, The persons concerned and engaged in this cause are still the same as before, with the advantage of being more tried, more enured to danger and hardship, and more endeared to one another, by their various and great experiences, as well of their own hearts as their fellow brethrens: These are the same still in heart, and desire after the same thing, which is, that, being freed out of the hands of their enemies, they may serve the Lord without fear in holiness and righteousness all the daies of their life.

As they have had this great good finally in their aims (if declarations to men and appeals to God signifie any thing) so as a requisite to attain this, they did with great cheerfulness and unanimity, draw out themselves to the utmost in the maintenance of a war, when all other means first essayed proved ineffectual. In the management of this war it pleased God, the righteous Judge, (who was appealed to in the controversie) so to bless the council and forces of the persons concerned and engaged in this cause, as in the end to make them absolute and compleat conquerors over their common enemy; and by this means they had added unto the natural right which was in them before (and so declared by their representatives in parliament assembled) the right of conquest for the strengthning of their just claim to be governed by national councils, and successive representatives of their own election and setting up. This they once thought they had been in possession of when it was ratified, as it were, in the blood of the last king: But of late a great interruption having happened unto them in their former expectations, and instead thereof, something rising up that seems rather accommodated to the private and selfish interest of a particular part (in comparison) then truly adequate to the common good and concern of the whole body engaged in this cause: Hence it is that this compacted body is now falling asunder into many dissenting parts (a thing not unforeseen, nor unhoped for, by the common enemy all along as their last relief) and if these breaches be not timely healed, and the offences (before they take too deep root) removed, they will certainly work more to the advantage of the common enemy, then any of their own unwearied endeavours and dangerous contrivances in forraign parts put all together.

A serious discussion and sober enlarging upon these grounds will quickly give an insight into the state of the question, and naturally tend tc a plain and familiar resolution thereof.

That which is first to be opened is the nature and goodness of the cause; which had it not carried in it its own evidence, would scarce have found so many of the people of God adherers to it within the three nations, contributing either their counsels, their purses, their bodily pains, or their affections and prayers, as a combined strength, without which the military force alone would have been little available to subdue the common enemy, and restore to this whole body their just natural rights in civil things, and true freedom in matters of conscience.

The two last mentioned particulars, rightly stated, will evidence sufficiently the nature and goodness of this cause.

For the first of these, that is to say, the naturall right, which the whole party of honest men adhearing to this cause, are by the success of their armes restored unto, fortified in, and may claim as their undeniable priviledge, that righteously cannot be taken from them, nor they debarred from bringing into exercise: it lies in this.

They are to have and enjoy the freedom (by way of dutiful compliance and condiscention from all the parts and members of this society) to set up meet persons in the place of supreme judicature and authority amongst them; whereby they may have the use and benefit of the choisest light and wisdom of the nation, that they are capable to call forth, for the rule and government under which they will live, and through the orderly exercise of such measure of wisdom and counsel as the Lord in this way shall please to give unto them, to shape and form all subordinate actings and administrations of rule and government, so as shall best answere the publique welfare and safety of the whole.

This in substance is the right and freedom contained in the nature and goodnesse of the cause wherein the honest party have been engaged: For in this all the particulars of our civil right and freedom are comprehended, conserved in, and derived from their proper root; in which whilst they grow, they will ever thrive, flourish, and increase: Whereas on the contrary, if there be never so many fair branches of liberty planted on

the root of a private and selfish interest, they will not long prosper, but must within a little time wither and degenerate into the nature of that whereinto they are planted. And hence indeed sprung the evill of that government which rose in and with the Norman conquest.

The root and bottom upon which it stood was not publique interest, but the private lust and will of the conquerour, who by force of armes did at first detain the right and freedom which was, and is, due to the whole body of the people; for whose safety and good, government it self is ordained by God, not for the particular benefit of the rulers, as a distinct and private interest of their own; which yet for the most part is not onely preferred before the common good, but upheld in opposition thereunto. And as at first the conquerour did by violence and force deny this freedom to the people, which was their natural right and priviledge, so he and his successours all along lay as bars and impediments to the true national interest and publique good, in the very national councils and assemblies themselves; which were constituted in such a manner as most served for the upholding of the private interest of their families. And this being challenged by them as their prerogative, was found by the people assembled in parliament most unrighteous, burdensome, and destructive to their liberty. And when they once perceived that by this engine all their just rights were like to be destroyed, especially being backed, as it was, with the power of the militia, which the late king for that purpose had assumed into his hands, and would not upon the peoples application to him in parliament part with into the hands of that great council, who were best to be intrusted with the nations safety: This was the ground of the quarrel, upon a civil account, between the king and his party, and the whole body of adherents to the cause of the peoples true liberty; whereof this short touch hath been given, and shall suffice for the opening of the first branch of this clause.

The second branch which remains briefly to be handled, is that which also upon the grounds of naturall right is to be laid claime unto, but distinguishes it self from the former, as it respects a more heavenly and excellent object, wherein the freedom is to be exercised and enjoined; that is to say, matters of religion, or that concern the service and worship of God.

Unto this freedom, the nations of the world have right and title, by the purchase of Christ's blood, who, by vertue of his death and resurrection, is become the sole Lord and Ruler in and over the conscience; for to this end Christ died, rose, and revived, that he might be Lord both of the dead and the living, and that every one might give an account of himself in all matters of Gods worship, unto God and Christ alone, as their own master; unto whom they stand or fall in judgment, and are not in these things to be oppressed, or brought before the judgment-seats of men. For why shouldest thou set at naught thy brother in matters of his faith and conscience, and herein intrude into the proper office of Christ, since we are all to stand at the judgment-seat of Christ, whether governors or governed, and by his decision only are capable of being declared with certainty, to be in the right or in the wrong?

By vertue then of this supream law, sealed and confirmed in the blood of Christ unto all men, (whose souls he challenges a propriety in, to bring under his inward rule in the service and worship of God) it is that all magistrates are to feare and forbear intermedling with, giving rule, or imposing in those matters; they are to content themselves with what is plain in their commission, as ordained of God to be his minister unto men for good, whilest they approve themselves the doers of that which is good in the sight of men, and whereof earthly and worldly judicatures are capable to make a clear and perfect judgment: in which case, the magistrate is to be for praise and protection to them. In like manner he is to be a minister of terrour and revenge to those that doe evil in matters of outward practice, converse, and dealings in the things of this life between man and man, for the cause whereof the judicatures of men are appointed and

set up. But to exceed these limits, as it is not safe nor warrantable for the magistrate, (in that he who is higher then the highest, regards and will shew himselfe displeased at it,) so neither is it good for the people, who hereby are nourished up in a biting, devouring, wrathful spirit, one against another, and are found transgressors of that royal law which forbids us to doe that unto another which we would not have them do unto us, were we in their condition.

This freedome then is of high concern to be had and enjoy, as well for the magistrates sake as for the peoples common good; and it consists, as hath been said, in the magistrates forbearing to put forth the power of rule and coercion in things that God hath exempted out of his commission. So that all care requisite for the peoples obtaining this may be exercised with great ease, if it be taken in its proper season, and that this restraint be laid upon the supream power before it be erected, as a fundamental constitution among others, upon which the free consent of the people is given to have the persons brought into the exercise of supreme authority over them, and on their behalf; and if besides, as a further confirmation hereunto, it be acknowledged the voluntary act of the ruling power, when once brought into a capacity of acting legislatively, that herein they are bound up and judge it their duty so to be, (both in reference to God the institor of magistracy, and in reference to the whole body by whom they are entrusted) this great blessing will hereby be so well provided for, that we shall have no cause to fear, as it may be ordered.

By this means a great part of the outward exercise of antichristian tyranny and bondage will be plucked up by the very roots, which, till some such course be held in it, will be alwayes apt to renew and sprout out afresh under some new forme or refined appearances, as by late years experience we have been taught. For, since the fall of the bishops and persecuting presbyteries, the same spirit is apt to arise in the next sort of clergy that can get the ear of the magistrate, and pretend to the keeping and ruling the conscience of the governours: although this spirit and practice hath been all along decried by the faithful adherents to this cause, as a most sore oppression and insufferable yoke of bondage, most unrighteously kept up over the consciences of the people and therefore judged by them most needful to be taken out of the way. And in this matter the present governours have been willing very eminently to give their testimony in their publique declarations; however, in practice there is much of grievance yet found among us, though more in probability, from the officiousnesse of subordinate ministers, then any clear purpose or designe of the chief in power.

Having thus shewed what the true freedom is, in both branches of it that shines forth in the righteous cause, wherein the good people of these nations have so deeply engaged, it will not be improper in the next place to consider two particulars more that give still further light into the matter in question; as, first, The qualifications of the persons that have adhered to this cause. Secondly, The capacity wherein they have been found from time to time carrying it on.

As to their qualification, they have in the general distinguished themselves and been made known by a forwardness to assist and own the publique welfare and good of the nation, for the attaining and preserving the just rights and liberties thereof, asserted and witnessed unto in the true stating of this cause, according to the two branches thereof already spoken to. They have shewed themselves upon all occasions desirers and lovers of true freedom, either in civils or in spirituals, or in both. To express their value thereof and faithfulness to the same, they have largely contributed, in one kind or other, what was proper to each in his place to doe; which actions of theirs proceeding from hearts sincerely affected to the cause, created in them a right to be of an incorporation and society by themselves, under the name of *The Good Party*; having been, from the beginning unto this day, publiquely and commonly so acknowledged by way of distinction from all neuters, close and open enemies, and deceitful friends o

apostates. These, in order to the maintaining of this cause, have stood by the army, in defence and support thereof, against all opposition whatever, as those that, by the growing light of these times, have been taught and led forth in their experiences to look above and beyond the letter, forme, and outward circumstances of government, into the inward reason and spirit thereof, herein only to fix and terminate, to the leaving behind all empty shadows that would obtrude themselves in the place of true freedom.

Secondly, As to the capacity wherein these persons thus qualified have acted, it hath been very variable and subject to great changes; sometimes in one form, and sometimes in another, and very seldome, if ever at all, so exactly and in all points consonant to the rule of former laws and constitutions of government, as to be clearly and fully justified by them any longer then the law of successe and conquest did uphold them who had the inward warrant of justice and righteousnesse to encourage them in such their actings.

The utmost and last reserve, therefore, which they have had, in case all other failed, hath been their military capacity, not only strictly taken for the standing army, but in the largest sense, wherein the whole party may (with the army, and under that military constitution and conduct, which by the providence of God they shall then be found in,) associate themselves in the best order they can for the common defence and safety of the whole. As not ignorant, that, when once embodied in this their military posture, in such manner as by common consent shall be found requisite for the safety of the body, they are most irresistible, absolute, and comprehensive in their power; having that wherein the substance of all government is contained, and under the protection whereof, and safety that may be maintained thereby, they can contrive and determine in what manner this irresistible, absolute, and boundless power, unto which they are now arrived in this their military capacity, shall have just and due limits set unto it, and be drawn out in a meet and orderly way of exercise, for the commonwealth and safety of the whole body, under the rule and oversight of a supreame judicature; unto the wisdome of whose laws and orders, the sword is to become most entirely subject and subservient, and this without the least cause of jealousie or unsafety, either to the standing army or any member thereof, or unto the good people adhering to this cause, or any one of them; since the interest of both, by this mutual action of either, will be so combined together in one, (even in that wherein before they were distinct) that all just cause of difference, fear, animosity, emulation, jealousie, or the like, will be wholly abolished and removed.

For when once the whole body of the good people find that the military interest and capacity is their own, and that into which necessity at the last may bring the whole party (whereof of right a place is to be reserved for them) and that herein they are so far from being in subjection or slavery, that in this posture they are most properly soveraign and possesse their right of natural soveraignty, they will presently see a necessity of continuing ever one with their army, raised and maintained by them, for the promoting this cause against the common enemy; who in his next attempt will put for all with greater desperatenesse and rage then ever.

Again, when once the standing army and their governours shall also find that, by setting and keeping up themselves in a divided interest from the rest of the body of honest men, they withhold from themselves those contributions in all voluntary and cheerful assistances by the affections and prayers, by the persons and purses of the good party, in the weakening themselves thereby; as to any vigorous support from them in the times of most imminent danger, (whereof the late king had an experience, that will not suddenly be out of memory, when he undertook the war in the beginning of these troubles against the Scots, and was, in a manner, therein deserted by all the good party in England,) they will then find (if they stay not till it be too late) they, by espousing the interests of the people, in submitting themselves with their fellow adhe-

rents to the cause, under the rule and authority of their own supream judicature, they lose not their power or sovereignty, but, becoming one civil or politique incorporation with the whole party of honest men, they doe therein keep the sovereignty, as originally seated in themselves, and part with it only but as by deputation and representation of themselves; when it is brought into an orderly way of exercise, by being put into the hands of persons chosen and entrusted by themselves to that purpose.

By this mutual and happy transition which may be made between the party of honest men in the three nations virtually in arms, and those actually so now in power at the head of the army, how suddenly would the union of the whole body be consolidated, and made so firm as it will not need to fear all the designs and attempts of the common enemy; especially, if herein they unite themselves in the first place to the Lord, as willing to follow his providence, and observe his will in the way and manner of bringing this to passe. In which case we shall not need to fear what all the gates of hell are able to do in opposition thereunto.

It is not then the standing and being of the present army and military forces in the three nations that is lyable to exception of offence from any dissenting judgments at this time amongst the honest well-affected party: in and with them, under God, stand the welfare and outward safety of the whole body, and to be enemies to them, or wish them hurt, were to doe it to themselves, and, by trying such conclusions, to play the game of the common enemy, to the utter ruine and destruction, not onely of the true freedom aimed at and contended for in the late wars, but of the very persons themselves that have been in any sort active or eminent promoters thereof.

The army, considered as it is in the hands of an honest and wise general and sober faithful officers, embodied with the rest of the party of honest men, and espousing still the same cause, and acting in their primitive simplicity, humility, and trust in reference to the welfare and safety of the whole body, is the only justifyable and most advantagious posture and capacity that the good party at present can find themselves in, in order to the obtaining that true freedom they have fought for, and possessing of it in the establishment thereof upon the true basis and foundation, as hath been shewed of right government.

That therein the offence lies, and which causes such great thoughts of heart amongst the honest party (if it may be freely expressed, as sure it may, when the magistrate himself professes he doth but desire and wait for conviction therein,) is in short this:

That when the right and priviledge is returned, nay is restored by conquest unto the whole body, (that forfeited not their interest therein) of freely disposing themselves in such a constitution of righteous government as may best answer the end held forth in this cause; that nevertheless, either through delay they should be withheld as they are, or through design they should come at last to be utterly denied the exercise of this their right, upon pretence that they are not in capacity as yet to use it; which indeed hath some truth in it, if those that are now in power and have the command of the arms do not prepare all things requisite thereunto, as they may, and, like faithful guardians to the commonwealth, admitted to be in its nonage, they ought.

But if the bringing of true freedom into exercise amongst men, yea, so refined a party of men, be impossible, why hath this been concealed all this while? and why was it not thought on before so much blood was spilt and treasure spent? Surely such a thing as this was judged real and practicable, not imaginary and notional.

Besides, Why may it not suffice to have been thus long delayed and withheld from the whole body, at least as to its being brought by them into exercise now at last? Surely the longer it is withheld the stronger jealousies do increase, that it is intended to be assumed and ingrossed by a party onely, to the leaving the rest of the body, (who in all reason and justice ought to be equally participants with the other in the right and benefit of the conquest, for as much as the war was managed a the expence and fo-

the safety of the whole) in a condition almost as much exposed, and subject to be imposed upon as if they been enemies and conquered, not in any sense conquerors.

If ever such an unrighteous, unkinde, and deceitful dealing with brethren should happen, although it might continue above the reach of question from humane judicature, yet can we think it possible it should escape and go unpunished by the immediate hand of the righteous Judge of the whole world, when he ariseth out of his place to do right to the oppressed?

Nay, if in stead of favouring and promoting the peoples common good and welfare, self-interest and private gain should evidently appear to be the things we have aimed at all along; if those very tyrannical principles and antichristian reliques which God by us hath punished in our predecessors, should again revive, spring up afresh, and shew themselves lodged also and retained in our bosomes, rendring us of the number of those that have forgot they were purged from their old sins, and declaring us to be such as to please a covetous mind, do withhold from destruction that which God hath designed to the curse of his vengeance. If all those great advantages of serving the Lords will and design in procuring and advancing his peoples true welfare and outward safety, which (as the fruit of his blessing upon our armies) have so miraculously fallen into our hands, shall at last be wrested and mis-improved to the enriching and greatning of our selves: If these things should ever be found amongst us, (which the Lord in mercy forbid) shall we need to look any further for the accursed thing? Will not our consciences shew us, from the light of the word and spirit of God, how neer a conformity these actions would hold therewith? which sin, (Josh. 7) became a curse to the camp, and withheld the Lord from going any more amongst them, or going out with their forces. And did the action of Achan import any more than these two things? First, he saved and kept from destruction the goodly Babylonish garment, which was devoted by God thereunto. Secondly, he brought not in the fruit and gain of the conquest into the Lords treasure, but covetously went about to convert it to his own proper use. To do this is to take of the accursed thing, which (Josh. 7) all Israel was said to do in the sin of Achan, and to have stolen and dissembled likewise, and to put it amongst their own stuffe. This caused the anger of the Lord to kindle against Israel, and made them unable to stand before their enemies, but their hearts melted as water. And thus far the Lord is concerned, if such an evil as this shall lie hid in the midst of us. But to return to what we were upon before.

The matter which is in question among the dissenting parts of the whole body of honest men, is not so trivial and of such small consequences as some would make it. 'Tis in effect the main and whole of the cause, without which all the freedome which the people have or can have, is in comparison but shadow and in name onely, and therefore can never give that peace and satisfaction to the body, which is requisite unto a durable and solid settlement. This is that which makes all sound and safe at the root, and gives the right ballance necessary to be held up between soveraignty and ubjection, in the exercise of all righteous government; applying the use of the sword to the promoting and upholding the publick safety and welfare of the whole body, in preference, and, if need be, in opposition, unto any of the parts; whilst yet, by its equal and impartiall administration in reference unto each, it doth withall maintaine the whole body in a most delightful harmony, welfare, and correspondency. The sword never can, nor is it to be expected ever will do this, while the soveraignty is admitted and placed any where else than in the whole body of the people that have adhered to the cause, and by them be derived unto their successive representatives, as the most equal and impartial judicature for the effecting hereof.

Where there is then a righteous and good constitution of government, there is first an orderly union of many understandings together, as the publick and common supream judicature or visible soveraignty set in a way of free and orderly exercise, for the directing

and applying the use of the ruling power or the sword, to promote the interest and common welfare of the whole, without any disturbance or annoyance from within or without. And then, secondly, there is a like union and readinesse of will in all the individuals in their private capacities, to execute and obey (by all the power requisite and that they are able to put forth) those soveraign laws and orders issued out by their own deputies and trustees.

A supream judicature, thus made the representative of the whole, is that which we say will most naturally care, and most equally provide for the common good and safety. Though by this it is not denied but that the supream power, when by free consent 'tis placed in a single person, or in some few persons, may be capable also to administer righteous government; at least the body that gives this liberty, when they need not, are to thank themselves if it prove otherwise: but when this free and naturall access unto government is interrupted and declined, so as a liberty is taken by any particular member, or number of them, that are to be reputed but a part in comparison of the whole, to assume and engrosse the office of soveraign rule and power, and to impose themselves as the competent publick judge of the safety and good of the whole, without their free and due consent; and to lay claim unto this as those that find themselves possessed of the sword, (and that so advantagiously, as it cannot be recovered again out of their hands, without more apparent danger and damage to the whole body than such attempts are worth,) this is that anarchy that is the first rise and step to tyranny, and laies grounds of manifest confusion and disorder, exposing the ruling power to the next hand that on the next opportunity can lay hold on the sword; and so, by a kind of necessity, introduces the highest imposition and bondage upon the whole body, in compelling all the parts, though never so much against the true publick interest, to serve and obey as their soveraign rule and supream authority, the arbitrary will and judgment of those that bring themselves into rule by the power of the sword, in the right onely of a part that sets up it self in preference before, or at least in competition with the welfare of the whole.

And if this, which is so essential to the well being and right constitution of government, were once obtained, the disputes about the form would not prove so difficult, nor find such opposition as to keeping the bone of contention and dis-union, with much danger to the whole: for if, as the foundation of all, the soveraignty be acknowledged to reside originally in the whole body of adherents to this cause, (whose naturall and inherent right thereunto is of a far ancienter date than what is obtained by successe of their arms, and so cannot be abrogated even by conquest it self if that were the case) and then if, in consequence hereof, a supream judicature be set up and orderly constituted, as naturally arising and resulting from the free choice and consent of the whole body taken out from among themselves, as flesh of their flesh, and bone of their bone, of the same publick spirit and nature with themselves, and the main be by this means secured, what could be propounded afterwards, as to the form of administration that would much stick?

Would a standing council of state setled for life in reference to the safety of the commonwealth, and for the maintaining intercourse and commerce with foreign states, under the inspection and oversight of the supream judicature, but of the same fundamental constitution with themselves, would this be disliked? Admitting their orders were binding in the intervals of supream national assemblies, so far only as consonant to the setled laws of the commonwealth; the vacancy of any of which, by death or otherwise, might be supplied by the vote of the majo part of themselves. Nay, would there be any just exception to be taken, if (besides both these) it should be agreed (as another part of the fundamental constitution of the government) to place that branch of soveraignty which chiefly respects the execution of laws in a distinct office from that of the legislative power, (and yet subordinate to them and to the laws) capable

to be intrusted into the hands of one single person, if need require, or in a greater number, as the legislative power should think fit; and for the greater strength and honour unto this office, that the execution of all laws and orders (that are binding) may go forth in his or their name; and all disobedience thereunto, or contempt thereof, be taken as done to the peoples soveraignty, whereof he or they bear the image or representation, subordinate to the legislative power, and at their will to be kept up and continued in the hands of a single person or more, as the experience of the future good or evil of it shall require.

Would such an office as this, thus stated, carry in it any inconsistency with a free state? Nay, if it be well considered, would it not rather be found of excellent use to the well-being of magistracy founded upon this righteous bottom, that such a lieutenancy of the peoples soveraignty in these three nations, may alwayes reside in some one or more persons, in whose administration that which is reward and punishment may shine forth?

And if now it shall be objected, that (notwithstanding all these cautions) should once this soveraignty be acknowledged to be in the diffused body of the people, (though the adherents to this cause, not onely as their natural, but as their acquired right by conquest) they would suddenly put the use and exercise of the legislative power into such hands, as would, through their ill quallifiednesse to the work, spoil all by male-administration thereof, and hereby loose the cause instead of upholding and maintaining it.

The answer unto this is, first, that God by his providence hath eased our minds much in this solicitude, by the course he hath already taken to fit and prepare a choice and selected number of the people unto this work, that are tryed and refined by their inward and outward experiences in this great quarrel, and the many changes they have passed through; in respect whereof, well qualified persons are to be found, if due care be taken in the choice of them. And if herein the people of the Lord shall be waiting upon him for his guidance and presence with them, we may have grounds and hope that God (whose name hath all along been called upon in the maintaining of this cause) will pour out so abundantly of his spirit upon his people attending on him in righteous wayes, and will also so move their hearts to choose persons bearing his image in the magistracy, that a more glorious product may spring up out of this, than at first we can expect to the setting up of the Lord himself, as chief judge and lawgiver amongst us. And unto this the wisdome and honesty of the persons now in power may have an opportunity eminently to come into discovery; for in this case, and upon the grounds already layd, the very persons now in power are they unto whose lot it would fall to set about this preparatory work, and by their orders and directions to dispose the whole body and bring them into the meetest capacity to effect the same. The most natural way for which would seem to be by a generall councill, or convention of faithfull, honest, and discerning men, chosen for that purpose by the free consent of the whole body of adherents to this cause in the several parts of the nations, and observing the time and place of meeting appointed to them (with other circumstances concernng their election) by order from the present ruling power, but considered as generall of the army.

Which convention is not properly to exercise the legislative power, but only to debate freely, and agree upon the particulars; that, by way of fundamentall constitutions, shall be laid and inviolably observed as the conditions upon which the whole body so represented doth consent to cast it self into a civil and politick incorporation, and under the visible form and administration of government therein declared, and to be by each individuall member of the body subscribed in testimony of his or their particular consent given thereunto. Which conditions so agreed (and amongst them an act of oblivion for one) will be without danger of being broken or departed from; considering of what it is they are the conditions and the nature of the convention wherein

they are made, which is of the people represented in their highest state of soveraignty, as they have the sword in their hands unsubjected unto the rules of civill government, but what themselves orderly assembled for that purpose do think fit to make. And the sword upon these conditions subjecting it self to the supreme judicature, thus to be set up: how suddenly might harmony, righteousnesse, love, peace, and safety unto the whole body follow hereupon, as the happy fruit of such a settlement, if the Lord have any delight to be amongst us.

And this once put in a way, and declared for by the general and army, as that which they are clearly convinced in the sight of God is their duty to bring about, and which they engage accordingly to see done, how firmly and freely would this oblige the hearts and persons, the counsels and purses, the affections and prayers, with all that is in the power of this whole party to do, in way of assistance and strengthning the hands of those now in power, whatever straits and difficulties they may meet with in the maintenance of the publick safety and peace?

This then being the state of our present affairs and differences, let it be acknowledged on all hands, and let all be convinced that are concerned, that there is not only possibility but probability, yea a compelling necessity of a firm union in this great body, the setting of which in joynt and tune again by a spirit of meekness and fear of the Lord, is the work of the present day, and will prove the onely remedy under God to uphold and carry on this blessed cause and work of the Lord in the three nations, that is already come thus far onwards in its progresse to its desired and expected end, of bringing in Christ the desire of all nations as the chief ruler amongst us.

Now unto this re-uniting work let there be a readiness in all the dissenting parts from the highest to the lowest, by chearfully coming forth to one another in a spirit of self-denial and love, instead of warre and wrath, and to cast down themselves before the Lord, who is the father of all their spirits, in self-abasement and humiliation for the mutual offence they have bin in for sometime past, one unto another, and great provocation unto God and reproach unto his glorious name, who expected to have been served by them with reverence and godly fear, for our God is a consuming fire.

And as an inducement unto this, let us assure ourselves the means of effecting it will not prove so difficult as other things that have been brought about in the late war, if the minds and spirits of all concerned were once well and duely prepared hereunto by a kindly work of self-denial and self-abasement, set home by the spirit of the Lord upon their consciences, which, if he please, he may do we know not how soon. Nay we shall behold with a discerning eye the inside of that work which God hath been doing amongst us the three years last past, it would seem chiefly to have been his aim to bring his people into such a frame as this is. For in this tract of time, there hath been (as we may say) a great silence in heaven, as if God were pleased to stand still and be a looker on to see what his people would be in their later end, and what work they would make of it if left to their owne wisdome and politick contrivances. And as God hath had the silent part, so men, and that good men too, have had the active and busy part, and have like themselves made a great sound and noise, like the shout of a king in a mighty hoast; which whilest it hath been a sound onely and no more, hath not done much hurt as yet; but the fear and jealousie thereby caused, hath put the whole body out of frame, and made them apt to fall into great confusions and disorder.

And if there be thus arisen a general dissent and disagreement of parts (which is not, nor ought to be accounted the less considerable, because it lies hid and kept in under a patient silence) why should there not be as general a confession and acknowledgment of what each may find themselves overtaken in, and cannot but judge them-

selves faulty for? This kind of vent being much better than to have it break out in flames of a forward and untimely wrathful spirit, which never works the righteousness of God. Especially since what hath been done amongst us may probably have been more the effect of temptation than the product of any malicious design; and this sort of temptation is very common and incident to men in power (how good soever they may be) to be overtaken, and thereupon do sudden unadvised actions, which the Lord pardons and over rules for the best: evidently making appear that it is the work of the weak and fleshly part, which his own people carry about with them too much unsubdued. And therefore the Lord thinks fit by this means to shew them the need of being beholding to their spiritual part, to restore them again, and bring them into their right temper and healthful constitution.

And thus whilst each dissenting part is aggravating upon it self faultiness and blame, and none excusing, but all confessing they deserve, in one sort or other, reproof if not before men, yet in Gods sight: Who knows how soon it may please God to come into this broken, contrite, and self-denying frame of spirit in the good people within the three nations, and own them thus truly humbled and abased, for his temple and the place of his habitation and rest, wherein he shall abide for ever? of whom it may be said God is in the midst of her, she shall not be moved; God shall help her and that right early, or with his morning appearance. At which time he will sit silent no longer, but heaven will speak again, and become active and powerful in the spirits and hearts of honest men, and in the works of his providences, when either they go out to fight by sea or by land, or remain in counsel and debates at home for the publick weal, and again hear the prayers of his people, and visibly own them as a flock of holy men, as Jerusalem in her solemn feasts. "I will yet for this be enquired of by the house of Israel, saith the Lord, to do it for them:" And then they shall know that I the Lord their God am with them, and that they are my people, and that ye my flock, the flock of my pasture, are men that have shewed your selves weak sinful men, and I am your God that have declared myself an all-wise and powerful God, saith the Lord God.

Postscript.

Reader,

Upon the perusal of this discourse thou wilt quickly perceive that these two things are principally aimed at in it by the author. First, to answer in some measure that which is called for by those in power, when they publickly profess they desire nothing more than conviction, and to find out the hidden provocations which either have or yet may bring forth the Lord against these nations, in the way which at present they are in.

Secondly, To remove out of the minds and spirits of the honest party, that still agree in the reason and justice of the good old cause, all things of a private nature and selfish concern (the tendency whereof serves but to foment and strengthen wrath and divisions amongst them) and in place thereof to set before them that common and publick interest, which (if with sincerity imbraced) may be the means of not only procuring a firm union amongst them, but also of conserving them herein.

In order to this, the author hath not been willing so much to declare his own opinion, or deliver any positive conclusions, as to discusse the business by way of question and answer, and thereby make as near a conjecture as he can, of that, wherein the several dissenting parts may with better satisfaction meet together, and agree upon a safe and righteous bottome, than to remain at the distance they do, to the apparent advantage of the common enemy, the approaching ruine of themselves, and needless ha-

ward (if not loss) of the cause they have been so deeply engaged in. Especially considering, that when once they shall be found beginning to come forth to one another in such a condescending self-denying spirit, cleansed from the stain of hypocrisie and deceit, they may be well assured that light will spring up amongst them more and more unto a perfect day; and then those things which at present we have next in view, will prove as shadows ready to flee away before the morning brightness of Christs heavenly appearance and second coming; through which they will be heightened and improved to their full maturity, to the bringing in that kingdom of his that shall never be moved.

And because an essay hath been already made in a private way to obtain the first thing, that is to say, conviction, which chiefly is in the hand of the Lord to give; the same obligation lies upon the author, with respect to the second, for the exposing of it as now it is unto publick view, and therein leaving it also with the Lord, for his blessing thereunto.

The Stationers Advertisement to the Reader, upon his Reprinting this Discourse at this Time.

Reader,

The former impressions of this Healing Question being all sold off, and it being yet desired after by divers, I have reprinted it: But for thy better understanding of it, be pleased to bear in mind, that it was first written and printed, upon occasion given, by the late General Cromwel, after he had taken to himself the supream power, and by a declaration for a solemn fast, upon March 13, 1655, invited the good people of England and Wales to wait upon the Lord for light and conviction, professing in the sight of God and man, a most willing mind, readily to receive, when convincingly offered by any; therefore some circumstantials of it, relateth to that person and occasion; but the main substance of it may be found very seasonable and of much use at this day: Its therefore offered to thy perusal.

T. B.

An exact Narrative of the Attempts made upon the Duke of Gloucester; being the Extract of divers Letters written out of France to Persons of Quality in England, and published for the Satisfaction of all true Protestants.

Printed in the year 1655.

This is a particular narrative of the attempt on the part of Henrietta Maria to convert her son, the young Duke of Gloucester, to the catholic faith, which she probably considered as the only road to profitable alliance for him in this world, as well as the path of salvation for that which is to follow. Clarendon's account of the same transaction and the consequences is as follows:—

"Within a short time after his majesty's return to Cologne, he received news that exceedingly afflicted him, and the more, that he knew not what remedy to apply to the mischief which he saw was likely to befall him upon it. From Paris his majesty heard that the queen had put away the tutor he had left to attend his brother the Duke of Gloucester, who remained at Paris upon her majesties desire that he might learn his exercises: the queen had conferred with him upon the desperateness of his condition, in respect of the king his brother's fortune, and the little hope that appeared that his majesty could ever be restored, at least if he did not himself become Roman catholick; whereby the pope and other princes of that religion might be united in his quarrel, which they would never undertake upon any other obligation. That it was therefore fit that the duke, who paid nothing to support him, nor could expect any thing from the king, should be instructed in the Roman catholick religion; that so becoming a good catholick, he might be capable of those advantages which her majesty should be able to procure for him; that the Queen of France would hereupon confer abbies and benefices upon him, to such a value as would maintain him in that splendor as was suitable to his birth, that in a little time the pope would make him a cardinal; by which he might be able to do the king, his brother, much service, and contribute to his recovery; whereas without this he must be exposed to great necessity and misery, for that she was not able any longer to give him maintenance. She found the duke more resolute than she expected from his age; he was so well instructed in his religion that he disputed against the charge; urged the precepts he had received from the king his father, and his dying in the faith he had prescribed to him; put her majesty in mind of the promise she had made to the king, his brother, at parting, and acknowledged that he had obliged himself to his majesty that he would never change his religion; and therefore besought her majesty that she would not farther press him, at least till he should inform the king of it. The queen well enough knew the king's mind, and thought it more excusable to proceed in that affair without imparting it to him, and therefore took upon her the authority of a mother, and removed his tutor from him, and committed the duke to the care of Abbot Montague, her almoner; who, having the pleasant abby of Pontoise, entertained his highness there, sequestred from all resort of such persons as might confirm him in his averseness from being converted.

'As soon as the king received this advertisement, which both the duke and his tutor made haste to transmit him, he was exceedingly perplexed. On the one hand his majesty knew the reproaches which would be cast upon him by his enemies, who took all the pains they could to persuade the world that he himself had changed his religion, and though his exercise of it was so publick wherever he was, that strangers resorted to it, and could bear witness of it; yet their impudence was such in their positive averment, that they persuaded many in England, and especially those of the reformed religion abroad, that his majesty was in truth a papist; and hi leaving his brother behind him in France, where it was evident the queen would endeavour to per-

vert him, would be an argument that he did not desire to prevent it: on the other side, he knew well the little credit he had in France, and how far they would be from assisting him in a contest of such a nature with his mother. However, that the world might see plainly that he did all that was in his power, he sent the Marquis of Ormond with all possible expedition into France; who he very well knew would steadily execute his commands. He writ a letter of complaint to the queen of her having proceeded in that manner in a matter of so near importance to him, and conjured her to discontinue the prosecution of it, and to suffer his brother the Duke of Gloucester to repair with the Marquis of Ormond to his presence. He commanded the duke not to consent to any propositions which should be made to him for the change of his religion; and that he should follow the advice of the Marquis of Ormond, and accompany him to Cologne. And he directed the marquis to let Mr Montague, and whosoever of the English should joyn with him know, that they should expect such a resentment from his majesty if they did not comply with his commands as should be suitable to his honour and to the affront they put upon him.

" The marquis behaved himself with so much wisdom and resolution, that, though the queen was enough offended with him, and with the expostulation the king had made with her, and imputed all the king's sharpness and resolution to the counsel he received from the marquis and the chancellor of the exchequer, yet she thought not fit to extend her power in detaining the duke, both against the king's and his own will; and the duke, upon the receipt of the king's letter, declared that he would obey his majesty; and the abbot found that he must enter into an absolute defiance with the king if he persisted in advising the queen not to comply with his majesty's directions: so that, after two or three days deliberation, the queen expressing very much displeasure at the king's proceeding, and that she should wholely be divested of the power and authority of a mother, told the marquis, That the duke might dispose of himself as he pleased, and that she would not concern herself any farther, nor see him any more. And thereupon the duke put himself into the hands of the marquis, who immediately removed him to the house of the Lord Hatton, an English lord, who lived then at Paris; where he remained for some days, until the marquis could borrow money (which was no easy matter) to defray the journey to the king. And then they quickly left Paris, and shortly after came to the king, who was extremely satisfied with the marquis's negociation and success, and kept his brother always with him till the time that he returned into England, the queen remaining as much unsatisfied."—CLARENDON, III. 425.

Paris, Novemb. 7th, 1654.

Sir,

THERE are newly come to my notice some untoward passages, whereby one of our great pledges hath been exposed to the hazard of his religion, which my pen is very loth to impart, were it not for prevention, lest, being impossible to be concealed in England, it might be represented by others either more desperate, or more faulty than yet it is in truth.

The king, when he went away from hence, was over-intreated by his mother to leave the Duke of Gloucester with her; which, to content her in some things, whom he could not please in divers others, he consented to grant her that request, upon promise that she would not force him to change his religion, and so conditions of liberty of prayers, &c. were established; but of late they do, some say by the French court's instigation, press it very hard, and even profess an attempt of it. Mr Montagu, Lord Abbot of Nanteul, &c., and his instruments, have gotten him, under pretence of weaning him from young French gallants company (that on occasion of being in the same academy, were indeed grown but too kind to him,) to Pontoise, and after a week's stay there, his tutor coming on business to Paris for one night (whether they designed this absence of his, or only did make use of it, I cannot tell,) they all set upon him with motives spiritual and temporal to become a Roman catholic. The spiritual ones, such as the subject would afford, little and many, more trusting on number than weight, he and (his only help then) Mr Griffin, answered with the best skill they had, and with

much more resolution and metal, both of them, than you can imagine, and rejected the temporal ones with contempt, and with the danger of incurring the king's displeasure, who had both given him a charge, and engaged his mother that there should be no change in religion laboured for; but to both the duke added a complaint that they should offer to assault him with either of those considerations in the absence of his tutor, who was fittest to judge of their proposals.

When he came, therefore, the shock was renewed, and sustained so firmly, that the stay at Pontoise was sooner ended than we hoped for. To our great content, we see our young prince again frequent and constant at the same devotions with us, but complaining much he should be troubled by his father's and brother's subjects, especially to become of another religion than they and his conscience directed him to keep to.

But the queen now must appear to own the thing, and to profess that she cannot but labour to have her son shewed the right way to heaven; and though she promised he should not be forced by her, yet to have that way proposed to him she found requisite; and since Mr Lovell (his tutor) had expressed he could not, nor must not see him so assaulted, and therefore pressed the forbearance of such discourses in the duke's presence, being ready to satisfy any one himself, she would put him into another governor's hands for a while at least: And so, under Mr Montagu's wing, he is carried to Mr Croft's house, being contrary to his own earnest intreaty, hurried away on Saturday, and not suffered to stay till Monday, though he pleaded hard for it, upon want of a warm coat, and there he must tarry till Monday sevennight after: Meanwhile no body with him that might help his resolution, save Mr Griffin of his bed-chamber, a young gentleman, though an old servant of his (once my Lord of Manchester's page) who is indeed zealous against their design, even with resolution to quit the service if any change should happen, but his years and breeding make him not invincible as to himself; and if he yield any considerable assistance to his master, must be left behind too, the next remove at least.

They have sent notice of these streights to the king and duke of York long since: But 'tis carefully provided, that the Duke of York must not come home yet; and when he does prepare to come, if they cannot find themselves conquerors and secure, they will (rather than hazard the loss of this prey) not scruple to encloister him from any heretic's view whatsoever.

In such a case as this, you cannot presume enough of the zeal and indignation the little prince has against his usage here; against the wrong done him by the council that left him in such dangerous hands; against every obtruded servant of that pack about him; against his new governor, himself crossing him in divers things, even of lesser moment, as if he were the only English whom experience hath taught, how narrowly men ought to watch against usurpation; in fine, he apprehends his danger seriously, and the honour of resisting most nobly and heroically, both for resolution of endeavour, and for confidence of success: That, and the odds of the cause, and God's power to perfect praise *ex ore infantium*, is almost the only hopes we have.

Let us have yours, and all good protestants prayers for this confessor; who, as he sees (unmoved) an evident want of all things fit for a gentleman of better sort, slighted of the French court, his mother's frown and endless importunity before him, if he be not perverted; so I doubt not is now under the new discipline and manage of their spiritual, or rather ecclesiastical falconers, who will not ever cease watching and dieting, &c., and whatever else is necessary to bring this young eaglet to stoop and vail, and to do all things at their lure, and even to take hood too, if need be: For they that make such such a court-work of every little child's, and discontented, debauched servant's conversion, will spare none of their little or great arts to get this noble bird of so royal

a wing, as being the only one of that airy they hope for now, having lost so much pains on the two former, and so fit to awe and dare lesser birds by; of which there are wagers laid of no few or mean ones already.

I foresaw this unmeasured excursion before hand, and was therefore so loth to write at all; and the truth is, I can neither *scribere* nor *non scribere* till this crisis be over: Though I foresee what news this will be in Gath, furnishing the parliament with a ready answer, when the next bold man asks, what have the poor gentlemen done abroad? And there are sagacious souls that would never understand till now the reason why the parliament decreed to send him abroad, e'er he was out-grown the danger of perversion: But certainly they that pretend to have true protestant hearts, and will, for either fear or love of money, suffer the defenders of their faith to be led into the wilderness of want, and prepare them with hunger for the devil's temptations of turning any stone to get bread, do deserve the lash of persecution, which in time may justly light upon them, if God and they do not timely prevent it.

Paris, 25 Novemb. 1654.

By former letters you may perceive how they prevailed with the queen to take the duke out of his tutor's hands, hurrying him first to Pontoise, and then to Mr Croft's house: During which, as fully as they possessed him, every hour and much less parts of the day, one or other of the bees ever humming about him; yet at night he had one that lay in his bed-chamber, who entertained him more to his heart's desire, and (like Penelope's web) unspun (as well as they could, two little young things, some few years above thirty between them) whatever had past in public, or the day before.

And, indeed, they did well to spend and improve their nights in this manner; for when once they were up (as his grand-father said of my Lord of Carlisle, he was in perpetual torments, eatings, huntings, dancings, visits, journeys, entertainments of males and females,) so our little duke was continually tortured with arguments finely embellished with true Roman catholic church; to be of the King of France's and his mother's religion; being made a cardinal; to become that king which must restore what Henry the Eighth took away, and the appendices.

However, he was not so strictly looked unto at first, but that there might be now and then stolen into his hand a comfortatory letter from his friends at Paris; but these shifts were to last but for a while: A terrible ferule was polished for him, and such a one, as the awe of it kept him from flat rejecting and affronting his new governor Montague, lest he, being thoroughly vexed, might resign him up into the jesuits hands; to whose college the duke knew himself destined within a few days, even by violence itself, if relief came not from Germany.

And now, when all his stock of replies (which my friend tells me were hugely ingenious, and indeed solid, such as one would say could not be in those years but *ex traduce*) were spent, and his last refuge of peremptory silence, and upbraiding them for pressing their sophisms on such a one as he was, while the dean his tutor and friends were declined basely, grew stale helps; behold a grave friend of his father's, Sir G. R. comes with a letter in his pocket from the king, and was indeed admitted to see him and talk with him before witness; but so far from possibility of privacy, that he was fain to leave the letter behind him to be conveyed at an opportuner occasion into his hand. That letter, says my intelligencer, begins and ends so brother-like, so Christian-like, so king-like, that he hath set my longing on fire to hear it. 'Tis promised me I shall, and when I do, I shall be careful to present you with that jewel.

It puts me in mind of the strict command he left with him at parting; of the monstrous injury to his conscience, to his state, to his family, the vanity of their motives, the emptiness of their promises, the more eligibleness of any degree of suffering, God's promises, whose love he must reckon to lose, as well as his so loving a brother's, if he

were perverted by any inticings whatsoever: And to make all he said more valuable, that he would reflect on their dead father's last charge, which he solemnly gave him, with the intail of his blessing annexed.

In fine, he closed his instructions with that which would have been severe enough alone: That if he either changed his religion, or put himself into the jesuits college, he had the last letter from him, and must never look to see England or his face again: And that if (which God forbid) their business miscarried, the whole ruining of their family, and all the nation's too, must lay the mischief at his door, as the great cause of it.

Now no sooner had he read this threatning comforter but he hugged it in his bosom, and with all possible speed transcribed a copy of it for his mother, sending it forthwith to her, and begging her leave to come to Paris, both upon those commands of the king, and upon the news of his brother's being come from the army. Of this the answer was, she could not cease wishing his so great and eternal good; but she would not force him, but wished him to hearken to what Mr Montagu should further deliver unto him; and that was, That he would be willing to go to the jesuits college however, where he should have strange freedom in every thing: But all would not persuade on the one side, nor secure on the other, till most welcomely about ten days since, my Lord of Ormond came from Germany with letters, and instructions to boot, to second with a duplicate and new charges by word of mouth the force of the former letters. His business (namely, the setting free of this young prince) was of high concernment, else so great a person would never have been spared from his master at such a time, in so ill a season of weather, to take so long and dangerous a voyage just upon the dissolving of the armies, who had beset all ways, and robbed all convoys; and had he staid but four days longer, he might as well have staid four years; it would then have been too late to have done any good.

But now the duke is returned to his old prayers, and to old faces, to whom he tells such stories of his adventures as (he says) has made him almost mad: But others say, have made him much wiser than a longer time and better tutors could easily have done.

Nov. 28.

Since the duke's return to the palace-royal, his brother's company, and the exercise of his own religion, he has met with many assaults: Obedience to his mother in all things possible, engaged him not to refuse whom she set over him, and sent about him; and though she has promised him some respite for a while at least, in respect to his brother's streight charge, yet she finds enough that pursue a truceless war. How he answers all their variety of smooth and sharp assaults, 'tis very pretty to hear; and did not the post's interruption give me suspicion, that our letters keep not their days to you no more than yours to us, I should send you constantly the proceedings in the business.

But if there be not strange unnatural carriage used, we shall enjoy his concurrence in communion with us, as we do every day, and which will most vex them, on Sunday next at church at the resident's house, which he is resolved shall not be neglected or omitted upon any persuasion whatsoever, though that be not in the number of those things which he is fortified for by the king's letter; for he has a serious indignation against them that have with so many wiles hindered him (indeed by plain moral violence, which no intreaty, no policy of his, could either prevent or mollify) so many Sundays from Paris, and at the reports which were begotten between lying tongues and credulous ears, that he was already turned, upon no other ground of his giving, but bare being away from church; which could no way be effected but by hurrying him out of town; nor could that be obtained of him without establishing a new governor upon him; which thing so indirectly trenching on religion, he could

n ot have refused without disobeying his mother: Yet the advantage of that, as it was really great against the poor youth, produced so great a pledge to the Roman party, that the curates in divers churches gave thanks for his reconciliation a Sunday or two agone; so that they will be now exposed to dispute of their parishioners, and mockery of the adversary, the first Sunday of their supposed proselyte's appearing at our church, which is likely to kindle no small wrath amongst them; and therefore we stand in fear of some shrewd crisis between this and Sunday morning as near as it is. I do not mean of hazard, but of greater violence of assault.

He has been on his visit at the Louvre, and passed those piques already, though both queen and cardinal jointly, and both severally, have pressed him that he is now to obey his mother since his father's death; and they cannot find any occasion he should have to regard other directions. Here he thought he had most need of his brother's letter, which enjoined him silence in any disputes: But manners would not suffer him to say nothing, and much less to say what he could have done, of the inconveniences of preferring mother's commands before his sovereign's; but it would have been too hot; and therefore glad he was to come off that brunt, with a general promise of dutifulness to his mother, as much as any son in the world could or ought to use; and a protestation, that it was ever a thing abhorred of him to hearken to any counsel to the contrary: And besides, that the very getting off was a triumph, he made great prize of their promise, that it was but for his greater good, and the advantage they should have of highlier doing him good, that they looked upon the hopes of his change of religion: They knew, however, that they ought to look on him as a child of France, of whatsoever religion he was.

There was besides, a passage which he was not very free of relating; yet it came out, that there had been a promise between the crowns, articled upon at the marriage treaty of his father and mother, that the queen should have the bringing up of all the children till twelve years of age, in lieu and compensation of which being so notoriously violated, it was but reason and great condescension, that the third son should be entirely committed to her disposal; especially she being in France. You will easily grant it out of the sphere of his age, to reply to such high assaults; it was highly enough for his honour, that he was thought fit to be so pleaded with: But that it wrought not with him, is a sign of God's great vigilancy over him, and a pledge that he has a blessing for him.

In fine, all these high addresses abroad, and others renewed at home, gave such a testimony of his firmness, that the queen on Saturday morning took him apart from all his and her servants, and very seriously bemoaned her case with his too, in that the earnest desire of his and the whole family's good met with such difficulties as should put her to use such severity with him: She could not but pity him, as wearied already with so many persuasions; and truly, the tender affection she ever had for him, and had constantly shewed to him, could not but make herself weary of such tedious courses: Therefore she was resolved to make a sudden end; and for that cause charged him to retire himself, and give one hearing more to Mr Montagu, and afterwards to lay her and his words seriously to his heart, and bring her an answer full and final e'er night. What the particular proposals she made were, may come out hereafter. At the first appearance of this intended privacy with him, he very dexterously contrived an opportunity to speak to his servant Griffin, to seek out my Lord of Ormond to be ready to speak with him, by then he might come from his mother, which is a fair omen; but the post must not be presumed on, &c.

Decemb. 2.

You were left, I think, at the state of things on Saturday morning, and was come to the charge the queen had given him to attend her alone. The duke had in the little interim of clearing the room, sent Griffin for my Lord of Ormond presently to be with

him, or at least so soon as the queen had done; and it was but prophetical providence; for the queen's business was of so great import, as might require it well: She began with all sweetness possible, repeated the manifest signs of her great and tender affection for him, and how much it grieved her that that very love itself should compel her to proceed now with such seeming severity: She presumed he was weary of it, and truly so was she too; therefore for his ease-sake, she would shorten his time of trial; and therefore proposing all the good she aimed at in this design of her's, and the duty he owed her, and the disability of the king to maintain him, &c. she wished him to withdraw presently, and sequestring himself from any diversion, after he had given Mr Montagu the hearing for a while, to ponder seriously what she and he had said, and bring her his final answer e'er night.

The duke obeyed, for reply then he must not; goes to his chamber. Mr Montagu comes, presses, is refused; but after an hour's discourse retires, begs to be sent for again when my Lord of Ormond was come, within an hour; if not, he must come of himself: But my Lord of Ormond comes, no Montagu sent for, or comes for two hours. The marquis and the duke soon resolved what should be answered; spent the time only in ordering circumstances for the manner:

After these three discourses, it was time for a young prince to have a little breath, and therefore he retires to a lady's chamber on the other side, where he might give his ears a little ease; and if he must hear more, that it might be less material discourse, therefore chuses one that would beat no more upon that theme: No sooner is he gone, but Mr Montagu comes, misses him, hunts up and down for him, chides him for being off his station of pensiveness, for not having sent for him.

"Well, Sir," says the duke, "my task is done; I have resolved. What did my mother bid more? there is time enough to tell:" And so it was, as it proved to be; for the answer was such, that the entertainment it had, was, "a charge to see her face no more:" Which sentence was no sooner pronounced but executed with French haste. Out he must; and then he had nothing but amazement to reply with, had now a cue to speak on, and beg the parting blessing at least, till he could prevail for her pardon. It will not be, out he must; and so full of tears and astonishment, to find out his brother he goes, and they share the sorrow, till youth and night parts them by drowsiness.

But the edict, that it may not seem scenical, or *in terrorem*, goes forth to all the officers of the house, neither to provide nor lend any necessary, either to spend, or so much as to use. While the young innocent slept soundly, and upon the advantage sorrow had given, long in the morning, dreaming but of one task at most, stealing a blessing of his mother, either by sister's or brother's intercession, or stealing at least a means of begging it e'er she went to her monastery, or himself to church, a much longed-for (and often wrangled-for) contentment: but instead of a mother, he is admitted to no converse on her side, but of a step-tutor, who again solicits, aggravates the peril of his mother's anger, knowing indeed more than the little duke did of it, (as causes can prophesy, and counsellors know all that was already.) "Now was the time if ever," says Montagu. "Get to her this very present instant, (almost sermon-time,) she has easier proposals for you; but I cannot name them now." The duke answers, "Then will I; wherever I go, I must have not a quiet only for a while, but the exercise of my religion; neither her proposals, and less yours, promise that."

The coach went now by with his mother for the nunnery; the back-side whereof made him warm. Mr Montagu need not aggravate the sadness of the spectacle, which, as appeared afterwards, was more like the last remote view than the child could think of. He answered, "Such as it is I may thank you for, sir; and 'tis but reason what my mother says to me I say to you. I pray be sure I see you no more," and so shewed his back: and to the last question, "Whither are you going, good sir?" the duke

answered, (over the shoulder,) "To church," where he was indeed somewhat sadder than became the chearfulness of the rest of the congregation; but e'er night we all pardoned him, finding much of its cause the story which we knew not then, and besides that, a great deal of augury which he could expresly then know; for after sermon he had a (no Sunday) thought lay on him to find a dinner; to the cook's he must send; neither meat, wine, bread, napkin, nor diet to be had else, so heavy, so general the proscription.

Yet, after evening prayer, he hoped one interval of content, by his mother's absence to go see his sister. The news of his adventure frights her, poor child, into tears and shrieks; and though the visitant was by his servant named a gentleman only, yet she starts up, and cries out, "Oh God, my brother! oh me! my mother! I am undone for ever! What shall I do?" Not one among her attendants, old or young, could answer her but in tears and shrieks as impotent. The poor duke attends. The messenger dissembles their postures till he was got farther off. E're long home was the queen come, and how full by this time she was of his reply to Mr Montagu, a new advance of the sentence shews. A groom comes up at eight or nine at night, to know what he should do with the duke's two horses. The comptroller was come with a charge to put them out instantly. The clown pleaded, to-morrow would be time enough; now 'twas too late. With a great oath or two the young comptroller replies, "Yes, and I shall be out of my place e're morning."

The resolutions on Monday, of the duke, were to give way to this passion; and, in order to it, since his verbal pass was given him on Saturday night, "Do what you please, only see not my face," he would not be so near his mother, (all the while he was providing necessaries wanting for a German journey,) but retire to Mr Croft's house a while, a little out of the way, whence he might beg a grant to be admitted to take leave. The queen hears of this also; checks Croft's for now seeming willing to receive him whom she has often commanded to-invite. The like penalty almost lay on him if he lent him his house: he tells the duke, and submits however to his pleasure. The duke thanks him, but would not displease her so much; and so resolves, after dinner, when the Queen of France was to come, (and it would be uncomely for him to be in the house, and not wait on her, as in his mother's lodgings he might not,) to go over the water, and visit my Lord H.; but even in that there would be a danger to the good lord from London; yet, considering there was great odds between his and his brother's presence, he adventured, though the deliberations made it somewhat over late. But there grew on an occasion that the next night he was to lie there also, for there was no longer staying in the palace-royal.

The lord and his lady cannot refuse (a double exile, for his father's and his own religion, and for his own crime, loyalty) to admit such a guest, while he can provide for his voyage; for which 'twas presumed he could find but two horses, and the relics of his new-given 10*l.* for the monthly privy-purse.

We were last night in some apprehensions too of danger, by reason of the situation of the house, alone in the utmost Fauxbourgs, from either the zealots, welwillers to the horribly and notoriously disappointed, or from the disrelish of the courts that might happen: But all is well to-day, saving that his abode there is not yet so known, but that divers of each French religion think he removed from the palace to the Jesuits College; all things being there so confidently ready long agone, and the desires of both queens so concentrally tending to that design, even since the peremptory commands of his brother from Cologn triplicated to him, and seconded with divers since.

December 5.

On Monday the queen had not forgot her severe threat and interdict to the duke; yet, having taken all the courses she could find in her own sphere, had, it seems, en-

gaged the Queen of France to try once more her authority with him. But the expectation of her coming to the palace was diversly interpreted; some imagined it was to make the Duke's peace; some that she might retract his resolution by fresh assaults; some to shew him how little he must look for the favour of their presence. But his highness could not endure the uncouthness of his confinement to his chamber, nor cared much to hazard the sight of the Queen of France, he had been so fearfully assaulted of late.

But so it was, that so soon as she came she sent her son, the Duke of Anjou, to visit him, who returned with news he was not at home. The Queen of France sent then his governor to inquire where he was; and having heard, sent him immediately over to the Lord H. to labour to bend him to the queen's resolution for him, and the Jesuits College was vehemently pressed again. To the king's contrary command, the Marquis (Duke of Anjou's governor,) replied with the greatest advantage of his own parts, that it belonged to the queen to dispose of her son since his father's death entirely; he disputed, whether he was in his brother's power, only for being his sovereign? And the discourse growing now somewhat publicker, and the lords joining in with the duke, the marquis had now his match; and the debating that ill-favoured nicety of authority between queen mother, and brother king, was so agitated by the English, that the French gentleman, a man of huge parts indeed, was put out of hopes of prevailing in his errand. The queen, in confidence of her envoy, expects he should bring her home entire news of the change of the young prince's mind, and till almost eight she tarried for him there; but the report of the discourse did soon satisfy her no alteration could be made in his resolutions.

The next day therefore a report is raised how uncivilly the Queen of France's message was received with affront, and the last step of alienation and distance, between the queen and her son, came to the height. The great palace of Cardinal Richlieu is not big enough for these two great hearts, extracted from Henry the IVth.

Since his departure all things are better than we imagined, save that the presumption they had of him heretofore is not yet worn away. It lasted, to my knowledge, till Thursday, in so great a strength of tumour, that one of the French ministers assured an Englishman that came to visit him, that the duke was for certain in the Jesuits College. The duke had made a resolution, that would have confuted the very relics of that mistake, by an intention to have come every day to prayers to us; but because that might perchance have aggravated the heat, and looked like a fresh affront, it was advised to be omitted.

We begin now, since I began writing, to be assured the passion begins to abate. The queen, they say, has condescended to give him leave to go with my Lord of Ormond, and it is hoped may admit him to beg her blessing, which makes my letter somewhat the shorter; and I presume you will be content to go to the burying of past four circumstances, as soon as may be, with the vindication of the duke's sincere and heroic constancy.

Directions for all my Fellow-Prisoners, now to be tried for their Lives by a Special Commission of Oyer and Terminer. Anno Dom. 1655.

In the beginning of the year 1655 there was a general opinion among the cavaliers that there was a favourable opportunity for rising throughout the kingdom. The day fixed for this attempt was the 18th of April; and the Earl of Rochester and Sir Joseph Wagstaffe came over from Flanders to head the insurgents. But from timidity on the part of some, and want of caution on that of others, the conspiracy took air, and most of those who should have guided its progress, were secured in prison. Penruddock and Groves alone appeared in arms in the west, assembled a body of 200 horse, and surprised Salisbury, where the judges and high sheriff were then holding the assizes. They seized all the horses in the city, and apprehended the persons of the judges and the sheriff, whom Wagstaffe ordered for execution, but was diverted from his purpose by the intreaties of Penruddock. After this hardy commencement, the insurgents seem altogether to have lost heart; their numbers, instead of increasing, declined, and at length their leaders were made prisoners, and their whole party dispersed by a single troop of horse, under Unton Crooke. Cromwell immediately sent judges, with a new commission of Oyer and Terminer, to proceed against the prisoners with all severity. But his Chief Justice Roles, unwilling to try those who had so lately spared his life, raised some scruples concerning the legality of their trial, for which Cromwell deprived him of his situation. Colonel Penruddock, who appears to have drawn up the following directions, laboured, at his trial, to bring their insurrection, where there had no blood been shed, under the head of riot. He left a report of his trial, which is inserted in the State Trials, vol. II. p. 261, from which it appears he followed, pretty nearly, the course he here recommends. But his defence was in vain, and he was beheaded at Exeter, with his fellow-sufferer Groves, 16th of May, 1655, dying with great firmness and professions of unalterable loyalty.

First, WEE must inquire by friends of the jurors names, and challenge any whom vee conceive ingaged against us, challenge them peremptorily, and give noe reason, for the law allows us to challenge 35, without giving any reason; but wee may not challenge above 35, least judgment pass against us as mutes refusing tryall, and so be pressed.

2. Besides the 35 challenged without cause, wee may challenge any against whom wee can shew cause; but the judge will declare whether it bee a sufficient cause or noe.

3. If any man hath named unto the sheriff any one of the jurors returned, (saving his sworn officers whose duty it is,) and if none can prove it, the indictment and proceedings may be voided by the statute 11 H. 4. cap. 9. Therefore let some friend of ours purposely name a juror to the sheriffe.

4. We must not immediately upon the reading of the indictment plead Not Guilty, for then wee can have noe councell allowed, nor be admitted afterwards to plead the illegality of the indictment; but as soon as wee have heard the indictment read, wee may say wee conceive the indictment is not sufficient in law, and that therefore wee desire councell to speak for us as to law, and this before wee say Not Guilty.

5. If the judge ask us why the indictment is insufficient, (seeming to deny us councell,) wee must say 'tis grounded neither upon the common law nor statute; and the judges are sworne to execute only the lawes.

6. If the indictment (as it will) doe call the jury jurors for the Lord Protector, then again let us alleadge, that wee are not legally indicted; for there are noe such persons by the law of England, for neither common law, nor acts of Parliament, doe know or acknowledge any favour for a L—— P——.

7. If any alteration be made in the indictment by the judges, then desire that the evidence to the grand inquest may be given at the barr in open court.

8. If any one of the grand inquest stand outlawed, it makes void the indictment; and if wee know any such, wee may challenge them, and demand the indictment to be vacated, by vertue of the statute of 11 H. 4. cap. 9.; and if the judge bid us prove them to be outlaw'd, wee may demand time, and wee will bring it under seale.

9. Wee must desire a copy of the indictment, (though the judge possibly deny it,) and urge my Lord Coke for authority.

10. If wee can find any incertainty in the indictment, either in time or place, lett's alledge it against the sufficiency of the indictment.

11. If the indictment express not particularly some open deed wee did in leavyeing warr, except against it as insufficient, and still insist upon the assignement of counsell to argue the case; because it is a scruple in law worthy great debates.

12. If the judges deny us counsell, tell them others usually have had it; and particularly Mr Norbury was counsell for Lieutenant-Colonel Lilburne, and the now Judge Nicholls and Serjeant Maynard were counsell for Captain Rolph, when he was accused for endeavouring to poyson the late king.

13. If the judge require it, give those exceptions in writing, (but expunge what makes against us, if seen,) still claymeing counsell, and urge Humphry Stafford's case, 1 H. 7. for a president.

14. If after argueing the case by councell or before, the judges over-rule the plea, then insist upon the same plea to the jury, and put itt upon their consciences, that God hath made them our judges between us and the judge; that if wee be found guilty by the jury, our bloud will lye upon the jury, and the judges be acquite; but if the jury find us not guilty, the jurors are innocent, though wee dye.

15. Tell the jury that they are now to judge, whether or no wee have committed treason; and if they judge that to be treason which is not treason, our bloud will lye upon them; and there can be no treason (nor ever was) in England, but such as is made so by the common law or act of parliament.

16. If the jury seem fearful to clear us absolutely, tell them (when the judges have over-ruled it) that 'tis safest for the jury to find a special verdict, which gives the point in law to all the judges whether or no it is treason; whereby also the jurors will leave all the danger that can hereafter follow, and all the bloodshed upon the judges.[1]

[1] Penruddock appears to have trusted much, though, as it proved, vainly, to an Englishman's last refuge from oppression, the feelings of a jury. He addressed them at his trial in the following affecting language:— "Gentlemen, you are a jury of life and death, and happy will it be for your souls if you prove a jury of life. You have heard what hath been said to make my actions treason, and with what vigour many untruths have been urged to you. I have made appear to you, that there can be no treason but against the king, and that the law knows no such person as a protector. Mr Attorney pretends a statute for it, but refuseth the reading thereof either to me or you; vilifies me at pleasure, and tells you I am a papist and would bring in the popish religion, and that if I had not been timely prevented I had destroyed you. I hope you are also satisfied of the contrary from the mouth of one of the bitterest witnesses. You are now judges between me and these judges. Let not the majesty of their looks or the glory of their habits betray you to a sin, which is a deeper dye than their scarlet: I mean that sin, blood, which calls to heaven for vengeance. Gentlemen, you do not see a hair of this head but is numbered; neither can you take any one of them, much less can you put breath into my nostrils when it is taken out. A sparrow doth not fall to the ground without the providence of God, much less shall man, to whom he hath given dominion and rule over all the creatures of the earth. Gentlemen, look upon

17. Lett every prisoner allow of one juror whom another prisoner hath challenged, and challenge him whom another prisoner hath allowed, whereby every one of us shall have a whole distinct jury for himself; which jury will possibly differ in their opinions, at least it will puzzle our prosecutors to get so many several juryes; therefore let each prisoner have penn and inke ready to note the names of the several jurors for several persons, who are for one prisoner, and who are for another.

18. They cannot indict us and trye us all in one day, (as 'tis plain in Kellway, fol. 159. 6.) which the Lord Chief Justice Rolls declared to bee law in the case of the Portugal ambassador's brother.

19. If they indict us for felony, wee may say it is noe felony, unless it be *animo furandi*, done with a felonious intent; and the country knowes wee did not intend to steal, but only borrow the horses, as is usual now-a-days, and as the soldiers did now at London and elsewhere who came against us; and the sheriff of the county was present when divers horses were seized, and did himself sieze some horses which were none of ours.*

20. Also ask the prosecutor upon the tryals, whether he can take it upon his oath that wee took the horses with a felonious intent; and if he will not swear it, then ask the jury whether they can take it upon their oaths that wee stole the horses, when the prosecutor himself will not swear it.

21. Ask the prosecutor, whether he came voluntarily to prosecute against us; and if he did not, but was forced, then desire the jury to judge whether those that are come hither from London purposely, have not an intention to take our lives.

22. If they indict us as traitors by any act of the Long Parliament, it will be for treason against the king, or against the commonwealth and keepers of the liberties; wee have done nothing against either of them, and let them prove it.

23. If they ground the indictment on any act or ordinance since the Long Parliament was dissolved, (which was April 20, 1653) deny it to be an act; for the two last parliaments made no acts at all concerning treason, and there can be no treason by an ordinance; therefore leave it upon the conscience of the jury, whether there be any laws to guide them in their verdict besides common law and acts of parliament.

24. Tell the jury that if the king had formerly with his councel made a proclamation, order, or ordinance, declaring something to be treason, which neither the common law nor any act of parliament had so declared, that no jury hereupon durst have found any man guilty.

25. Alleadge the case of Chief Justice Tresilian, Sir Robert Belknapp, and other judges in the 11th year of Richard 2, who giving their opinions that other facts were treason than what had been declared by authority of parliament, and by the parliament

ni , I am the image of my Creator, and that stamp of his, which is in my visage, is not to be defaced without an account given wherefore it was. I have here challenged, as I am a gentleman and a free-born man of England, the right which the law allows me; I demanded a copy of my indictment and counsel, but it is denied me. The law which I would have been tried by, is the known law of the land which was drawn by the wise consultation of our princes, and by the ready pens of our progenitors. The law which I am now tried by, is no law, but what is cut out by the point of a rebellious sword; and the sheets in which they are recorded, being varnished with the moisture of an eloquent tongue, if you look not well to it may chance to serve for some of your shroud. If the fear of displeasing others shall betray you to find me guilty in any thing, you can at the most but make a riot of this. Pray, by the way, take notice, that the last parliament would not allow the legislative power to be out of themselves; seventeen out of twenty in this very county were of that opinion, and deserted the house; they were your representatives; if you should find me guilty you bring them in danger, and in them yourselves. Have a care of being drawn into a snare. Gentlemen, your blood may run in the same channel with mine; if what I have said do not satisfy you so as to acquit me, if you bring a special verdict, you do in some measure acquit yourselves, and throw the blood that will be spilt upon the judges. Consider of it, and the Lord direct you for the best!"—*State Trials*, *II.* 261.

* Alluding to the horses which they seized on taking possession of Salisbury. It is not easy to comprehend what he means by the sheriff having seized horses; it must be remembered he was for some time then prisoner, and was perhaps compelled by them to lend an apparent countenance to their proceedings

following 11 Richard 2, were made examples for their treasons; and in the 21 Richard 2, the judges giving the like opinion, had no other excuse to avoid the attainder of treason in parliament (1 Henry 4) then that they durst say no otherwise for fear of death; but it was hereupon enacted, that no justice, or other person whatsoever, should from henceforth be admitted to say, That they durst not, for fear of death, speake the truth: so that no force or fear can excuse any person if he shall now declare any fact to be treason, which cannot be warranted by authority of parliament. Therefore leave it upon the consciences of the jury, whether they do believe wee are indicted for breach of any common law or act of parliament; and if for neither, whether they can in conscience take our blood upon their heads.

26. If the judge pretend that wee alleadge not matter of law sufficient for assignement of counsell, then urge that the ordinance whereupon the indictment is grounded is not pursued, that at the tyme of the indictment there were not two lawfull accuser or witnesses to the grand jury, which ought to be by law. Or a prisoner may alleadge he is not rightly named in the indictment, or hath not his right title or addition, or the fact is not set down with sufficient certainty; and by some or all of these, wee may get counsell assigned.

27. If the indictment be for levying warre, alleadge there is no such open deed sett down as is sufficient in law, and in such case desire counsell to argue it, and endeavour to make our bearing arms onely a riott or unlawfull assembly, and not a leavying of warre; for every bearing of armes in warlike manner, is not by the law a leavyeing of warre, as was adjudged in the Earl of Northumberland's case, 5 H. 4.

28. If wee could say wee met together for some private revenge upon the sheriff, or some private man, and not for destruction or reformation of any law of the land, or to oppose any lawfull authority, then unless two witnesses shall swear that wee did declare some other end, the case must be resolved in law, whether it be a levyeing warre. Yet this point in law must not be insisted upon, untill the grand point be over-ruled by the court, viz. That the indictment is sufficient in law, notwithstanding it is not grounded upon the common law or any act of parliament, for wee ought to lose ground by inches.

29. If they proceed upon the indictment to give evidence against us, insist upon it, that the matter of fact be proved by two sufficient lawful witnesses, and let those witnesses depose openly in court, face to face, for the law exacts two lawfull witnesses in case of treason, by the statute 1 Edw. 6. and 5. Edw. 6 cap. 11. and 1 and 2 Phil. and Mar. cap. 11. Lett the witnesses be strictly examined and put to swear punctually to the fact charged in the indictment, as the open deed declaring and leavyeing a warre, and that both witnesses swear to the same fact, and at the same tyme and place, else they are but single testimonies to two facts of the same nature.

30. Insist upon it to make them prove the act or ordinance is a true copie of the parliament roll, and examine them upon oath, whether they examined it by the roll (for 'tis possible they may have forgot to do it) alleadging that wee are not to be tryed by every printed paper, and demand it may not be read or given in evidence till it be proved.

31. If they offer to prove by any intercepted letters (whereof they have copies) that wee leavyed warre, deny those copies, and demand the originals; and if the originals could (which cannot) bee produced, they can never prove them to be any of our hands; if soe, wee put them to it.

32. If the commissioners that trye us, be S— G— or R— S—, or any other, who are not the ordinary judges at Westminster, tell the jury that these are not the sworne judges of the land, but practisers and pleaders, servants to the L. P., and made judges only to this purpose, to take our lives contrary to law, because the sworn judges refuse it. If Baron Thorpe come, he is a sworn judge.

33. If the judges say that the L. P. hath the same power that the late governors (whether king or parliament were invested with) tell the jury boldly, that the laws of England cannot be altered but by act of parliament; and therefore there was an act of parliament to change the government from the king to the keepers of the liberty, *anno* 1649; but there is no act of parliament since to change the keepers of the liberty into a L. P., so that there can be no treason to bear arms against the P.

34. Tell the jury that now 'tis our case, and they know not how soon it may be their own, for many were zealous for the present government as the jury now can be, who have already felt, and others like to feel the effect of these new ordinances; how safe and honourable it is for them to stick to the law rather than take our blood upon them, an instance in John Lilburne's several juries; or if not to acquit us, yet to acquit themselves by finding a special verdict, which leaves us to law and layes the guilt of our blood upon the judges, and especially how dangerous it is for the jury to prove (by shedding our blood) that the Lord P. hath a legislative power, and that his ordinances are laws, when the late representative of the whole people in parliament refused to acknowledge them.

Concerning the Forraigne Affaires in the Protector's Time. MS.

I know it is commonly said, that the interest of England is alwaies the same in reference to forraigne nations, and that the change of governments and governors can make no change in that, nor in the meanes and counsells of prosecuting it with our neighbours, and that such alliances as are advantagious to England at one time will be alwaies so; but the experience of all times sheweth the contrary, and that not only every age, but every succession in the government have varyed according to the reason of the times, and the occurrences which have fallen out with them.

I find the alliances of those times were contracted and conserved upon these interests.

I. To deprive his majesty of forraigne assistance in his restitution: hence it was, that the alliance with France was preferred to that of Spaine, wherein there were these considerations:

1. France had by the relation of blood and upon the treaty of marriage, that title to interest themselves for the restitution of the king, as no other nation had.

2. He had greater advantages and more proper mediums, wherewithall to give England trouble at that time, than any other could have: for,

1. He had protestants of his own subjects to make use of in this case, to engage whom in the King of England's quarrel was of great consequence, as the English affaires were then estated.

2. The Scots were at the devotion of France, and they being assisted with money from thence, and by the help of many in England of the same principles and interest with them, might have raised dangerous troubles in our own bowels.

3. The King of England was then actually in France forming his counsells this way; the consequence whereof would in a short time have been an open breach with France, which was thought upon the grounds aforesaid to be dangerous.

These and some other considerations (which are afterwards expressed) disposed England to contract a friendship with France; and Monsieur de Bourdeaux being here sent upon occasion of the obstruction that was in the commerce, by reason of the French depredations in the Mediterranean, and the letters of marque granted for this cause by England against the Frenchmen, there was opportunity to understand the

mind of France therein, who indeed being jealous that England might make an alliance with Spaine at that time, (which jealousy was industriously cherished on this side, by setting on foot a treaty with Spaine,) was as desirous, on their parts, to know the intentions of England; and first by Monsieur de Bourdeaux, and then by Monsieur de Baas, endeavoured to sound the affections and dispositions here.

There being also at that time at London agents both from the Prince of Conde (then in the King of Spain's service) and from the town of Bourdeaux, who held out against the crown of France, both sollicitting for aid, and were many times favourably heard, the cardinall was the more jealous, desirous to prevent any thing of that kind, and propounded a league offensive, to be agreed upon between England and France, assuring the desire of that crown to continue an intimate and confident friendship with this state in all things, and to manage their common concernments by common counsells.

The protector, finding France to stand thus inclined, and perceiving that they were serious in it, though he did not much apprehend the usefulness of so strict a league, and therefore desired it not, yet entertained the propositions, and declared himselfe willing to treat upon terms of friendship, in case he might be secured,

1. That France would not, directly or indirectly, give any assistance to the King of England, nor suffer him, or any of his, (which the protector should name,) to abide in any of his dominions.

2. That he might depend upon France, in case of new troubles arising between him and the Dutch; and that no treaties might be made between France and that state prejudicial to England, about the commerce and navigations; a thing which the Dutch had projected, and were continually endeavouring to effect; and this the protector did see, being always jealous of that people.

3. That the protestants of France might be well treated, and have the former edicts made good to them, (a thing the protector laid to heart as much as any thing,) by which meanes he would lay an obligation upon those people, and draw them to a dependance upon him, and thereby keep an interest in France in all events; and also do that which was most acceptable to this people, as to all other protestants in the world, whose cause and interest he professedly on all occasions asserted, and laid the foundations of becoming the head and protector of them. He had not a greater consideration than this in casting his allyance this way, and in making warr upon the King of Spain and House of Austria, the head and protector of the papists.

The protector having received assurances of these things, and that satisfaction therein from the cardinall which he relied upon, (and had afterwards the effect thereof accordingly,) a treaty was concluded, only of a defensive allyance, (the same now in print,) with an article apart to exclude his now majesty, and others of his councell, out of France; and all this was done with a prospect and understanding between them of a conjunction in counsells and arms, (which afterwards followed,) upon some particular design against Spain; the protector more affecting that way of conjunction, that is to fix upon some particular design, which had mutuall conveniences in it, and was immediately to be executed, and without any further obligation to other things than to enter into strict leagues offensive and defensive, which do intricate and entangle affairs, but are seldom performed of the part of any. It was foreseen that the excluding the king out of France would cast upon him Spain, which some thought a difficulty, but the protector an advantage.

1. Because his being in the hands of Spaniards would make his returne more difficult: the religion and interests of that crown being hated generally, both by the English and Scots, and affected only by the Irish.

2. And in case the Spaniard, by the help of the Irish, had by a warr attempted the restitution of the king; it was conceived to be the likeliest meanes of uniting the several divided interests of the kingdom together in that quarrell.

The peace with France was followed with a warr with Spain, and all future treaties and negotiations were managed with reference unto that.

The first was a conjunction between England and France, in prosecuting the warr against the Spaniard in Flanders, wherein, besides weakening of the Spaniard in generall, then his enemy, he aimed at, above all things, the obteyning a good and sure footing upon the continent, and to get into his hands the sea-port townes in Flanders. He designed Dunkirk and Ostend, as also Newport; the first he obteyned, and had begun a treaty for the other, wherein he had these considerations:

1. By this means he designed the securing of himself against invasions from abroad, on the account of his now majesty from France he feared nothing, being in friendship and amity with them upon the aforesaid treaty, and now in actual conjunction in a common warr; he had also made the same provision by a treaty with the Dutch, where neither the king or any of his might come.

There remained only Flanders whence he might expect any trouble, and where forces, as well of his majesty's own subjects, as of Germany and other parts, might be collected and drawn together to be transported hither.

To obviate this, he, by supplying the French with foot, enabled them to make a vigorous warr in Flanders for the present, where the Spaniard was forced to make use of the forces of the King of England for defence of his own countries.

2. But having these places of strength in his hand, he carryed the keyes of the continent at his girdle, and was able to make invasions thereupon, and let in armies and forces upon it at his pleasure, which none else could do upon him whilst the sea was between him; the advantages whereof he conceived were great.

1. It would oblige France to perform their treaties with him, and in particular that of making no peace, but by his consent; or, in case of a breach, he had an easy way to take his own satisfaction.

2. As France would from hence be tender to contract any alliances with others which might be prejudicial to England, so could they not think it safe to undertake any great designes without a perfect understanding with him herein; because they left a back door behind them in Flanders, which might be made use of to the overthrow of France, whilst they were engaged elsewhere. And this probably was one great reason why the King of France was so carefull to get Dunkirk out of the hands of the English into his own, before he openly engaged in those great designes he seemed to be upon.

3. He conceived that, under his countenance, multitudes of the people in Flanders and those parts, suppresst and kept under by the Spanish severity, from professing the protestant religion, would declare themselves, and several of the great townes be induced to throw off the Spanish yoke; whereunto they shewed themselves disposed the little time Dunkirk was in English hands; besides the security the protestants of France would apprehend themselves to be in, by their having so powerfull a friend, their neighbours on the same continent with them, from which could not but result great consequences to one that would improve them.

4. Being upon the continent, and considered as the patron and protector of the protestant religion, he stood fair for undertaking and prosecuting any design which the vicissitude of human affairs, and his own active disposition, might give him the opportunity.

5. An English interest in Flanders was desired as a bridle upon the Dutch, who, not being able to sail through the channell, either with their armed or merchant ships, without passing by the English harbours on the one side and the other, where ships of warr had their station, would be necessitated to manage their trade under the favour and goodwill of the English; the benefit whereof England would find in all their interests relating to that state, either in times of peace or warr.

6. It seemed of great importance to have this interest in Flanders, in point of safety

to our own trade, which was in all times disturbed, and greatly prejudiced by the Dunkirkers and Ostenders, in whose hands soever they were.

After that Dunkirk was delivered to the English upon the treaty aforesaid, propositions passed between England and France touching the besieging of Ostend with conjoyned forces, and putting it likewise in English hands; but this came to nothing, by reason of the old protector's death, soon after which new overtures of peace were made between the two crowns of France and Spain. France communicated their whole proceedings therein to England, with assurances that nothing should be done in it contrary to the interests here; desiring the then government to declare, whether their mind was to make a peace with Spain, or to continue the warr, whereto France was resolved to conform itself; the cardinall, upon this occasion, saying, that the peace was so much desired by the clergy and nobility of France, that he could not avoid treating; but that the king would never proceed to a peace contrary to the mind of England, and was ready to be obliged to prosecute the warr, if England would do the same; or, if they were disposed, for their own interests, to make a peace with Spain, that France was desirous to have it treated by joint counsells, and with mutual consent and satisfaction.

At the same time Spain sent privately hither, endeavouring to sound the intentions of England touching a peace, which they preferred to that of France; and much insisted to know the principall points that England would insist upon, assuring that the crown of Spain was so much disposed to a peace with England, that there could not be a difference upon the terms, if England had a reall intention to conclude a peace: and much endeavouring there was, that an English gentleman, whom the government here confided in, might go to Madrid, though without character or any credentials, to speak immediately with the King of Spain therein.

In this conjecture, when France in generall, weary with the warr with Spain, passionately desired a peace, and Spain, weakened and exhausted with the warr with England, wherein that crown received more prejudice in three years than in tenn years warr with France; his dominions, both in Europe and America, being upon the matter so besieged by the English fleets, that his trade into America from Spain, and his returns in silver from thence into Spain, was wholly obstructed, and no way visible to him to remove this obstruction, which threatened Spanish monarchy, England had the opportunity in their hands, both to state their own interests, with both these crownes, to their utmost advantage, and also to be the umpire of the peace betweene them. But the revolutions that happened in England put an end to these councills. Whilst matters stood thus between England, France, and Spaine, the warr broke out between Sweden and Poland, which Sweden undertook without any counsell with the protector. But after he was engaged therein, that king sent an extraordinary embassador to desire aid from him in the carrying on of that warr, as directed by him for the advantage of the protestant cause. The protector propounded to him the making warr upon the emperor, and that part of the House of Austria in the east, as he, the protector, was engaged against that part of it which is in the west, and that, upon this foundation, a league offensive and defensive might be entered into, wherein France, the Low Countries, Denmark, the Elector of Brandenburgh, and the Prince of Transilvania, and other states might be invited. Whereunto the King of Sweden consented; and a project of articles was drawn and debated upon, and an agreement made to send their respective embassadors to France and the Dutch, to communicate counsells with them herein, and to know their intentions. The Dutch had already declared their unwillingness, and apprehended danger to themselves from the success the Swede had in Poland, and took resolutions under hand to give a stop to him: and to that end, by great promises to the King of Denmark, and great rewards to his counsellors, engaged that king, contrary to his interest, to invade the King of Sweden in his Dutchy

of Bremen. This drew the King of Sweden out of Poland, and sett that warr wholly on a new foot; and most of the princes and states of Europe found themselves concerned to intermeddle in it.

The principall combatants were the Kings of Sweden, Poland, and Denmark. The Duke of Brandenburgh, who at first joined with Sweden, fell off to Poland. The emperor also declared with him. The Dutch at first pretended a neutrality; but, underhand, irritated the said princes against the Swede. The Swede, nevertheless, had that success against the Dane that he had almost made a conquest of all Denmark, and was near bringing the Sound under his power. The protector, though in general he wished the prosperity of the Swede, his ally, hoping that his arms at last might be directed the right way, yet did not like that the Swede should conquer the Dane, and possess all those countries, believing, he being thereby become so powerfull a prince, might engross the whole trade of the Baltick Sea (wherein England is so much concerned) to himself, and therefore interposed in most serious terms with both the kings to make a peace, which, at the first tender, was accepted by both, and a peace ensued thereupon, called the treaty of Roskild. But the warr being renewed again the next autumn, the matter became more entangled. The emperor, the Duke of Brandenburgh, the Kings of Poland and Denmark, entered into a league of defence and offence against the Swede. The Dutch also declared the same way, and prepared a powerfull fleet, and also land forces for the assistance of the Dane.

The protector very much apprehended the issue of this great conjunction. He thought it equally dangerous for England that the Swede should be ruined, or the Dane preserved by such saviours, who, after they had destroyed the King of Sweden, would also make a prey of the Dane himself. The emperour, in this assistance he gave against the Swede, revived the whole designes of the Austrian eagle, of stretching his wings out to the east sea, and planting himself upon the Baltique. The Dutch aimed at the command of the Sound; and, under pretence the Dane was too weak to keep it against his neighbour, would have kept it for him, and had already swallowed Drun, then a place of great consequence, mortgaged to them by the King of Denmark for money, and agreed to be delivered into their hands; so that the price of the King of Denmark's deliverance was like to be the resigning himself into the hands of the Dutch, as his guardian and protector.

That which the protector pitcht upon in this great occasion, was to endeavour a present peace between the Dane and the Swede, upon the last treaty of Roskild, which had been made by his mediation, without taking in the differences that were between Poland and Sweden, or the Swede and the Duke of Brandenburg, or comprehending the pretences of the Dutch or the emperor, which, having many intricacies in them, would require time.

This the protector did, as well to obviate the designs of the Dutch, as to keep open the way of making use of the arms of Sweden against the emperor. This was liked by none of the contending parties. The Swede himself, though thus beset, yet having in this said warr gott the whole kingdome of Denmark but Copenhagen, and believing that England and France would not suffer him to sink, was unwilling to be brought back again to the treaty of Roskild. The Dane was as averse as he, not doubting but, by the aid of his confederates, to recover again what had by the aforesaid treaty been settled upon the Swede. The confederates opposed it, or any treaty, without comprehending all their interests; and the Dutch most of all insisted here, the meaning whereof was, that they had all agreed totally to ruin the Swede. The protector in this whole business laid this for a foundation, that it was not for the interest of this kingdom that either the Swede or the Dane should be ruined; and that it was safest for our trade and commerce to have the Sound and those countries remain in the hands of Denmark, and therefore interposed in the first warr to preserve the Dane, and was re-

solved now to proceed by the same measures, and so to manage that affair that things might suffer no change or alteration in those parts.

And having communicated with France herein, and finding that court to have the same sentiments, they entered into a treaty for the mutual management thereof, where it was agreed,

1. That England and France should propound to both the said kings to renew the said treaty of Roskild, without any alteration.

2. That they should declare themselves enemies to him that should refuse it, and assist him that accepted it.

3. That both should send their ambassadors to the Dutch, to desire them to joyne in this mediation.

4. In case a warr should happen to England, by reason of any assistance it should give in this case, that France should adhere to England in that warr, and declare the opposite parties enemies to France, and so *e contra*.

Accordingly the ambassadors of both states at the Hague propounded the terms aforesaid to the Dutch, which they refused; and instead thereof prepared a powerful fleet and land forces to assist the Dane. England, finding words would not do, prepared also a good fleet, and sent the Dutch word that he was resolved to send his fleet into the Sound, and propound his mediation for a peace on the terms aforesaid, and constraine the opposite party by force; and one of the ambassadors at the Hague required, in the name of both their masters, that the States General should not send any aid or assistance to the fighting parties in the Sound, thereby to inflame that warr, and that they call back such as they had already sent.

This brought the Dutch to a treaty, and, with much difficulty, they agreed to joyne in this mediation with England and France. Whereupon a treaty was entered into between all these three states for the managing of this affair; and by agreement the fleets were to set sail at one time, and as common friends to both the said kings, to bring them to a peace upon the terms aforesaid; and at the same time a treaty was made between England and Sweden, that in case the King of Denmark was refractory, and refused the peace, that then England should assist the Swede against him; and in lieu of the charges and hazards of the warr, a summe of money was to be paid to England, and freedom to the English for ever from paying any toll for their passage to and from the Baltique Sea, in case of success against the Dane, for the performance whereof security was to be given to England.

In pursuance of this treaty the English fleet sailed to the Sound, and soon after arrived the Dutch, and the mediation was offered to both the kings, in the name of all the three estates, and a certain day was limited for the said kings to declare themselves, whether they would accept the peace upon the terms propounded. Both made a great difficulty therein; and the Dutch, who openly joyned with the English and French ambassadors, yet under hand dissuaded the Dane from agreeing thereto, and span out the treaty to a length, untill the English affairs were in such a condition at home that their fleet returned into England, leaving this treaty unfinished, and then the management of it fell into the hands of others, who had not the same intentions with the preceding powers in reference to this affair.

The Dutch had discovered in this, and other rancounters, a fixed design to monopolize all trade into their own hands. That in the Mediterranean they hoped to obtaine by occasion of the warr between England and Spain; and having understood the carriage of all Spanish goods, and even to manage the Spanish trade to and from the Indies in their ships, they endeavoured to put such articles upon England, under the notion of a marine treaty, as might free their ships from all search or molestation, whereby enemies goods might have been carryed with all safety, which, no question,

would have drawn all the traffique into their ships, and infinitely increased their shipping and navigation. By occasion of the warr in the eastern parts, they would have engrossed the trade of the Baltique Sea; for, having engaged the Dane to make warr against the Swede, under the pretence of giving him assistance, they designed to draw him into an absolute dependance upon them, and by means thereof to have the same power upon the Sound as if it were in their own hands; a thing they heretofore attempted, by taking the farm of that passage, whereby they eased themselves and heightned others, as was most for the advantage of their own trade; and now in fact the mortgage of part of Denmark, whence come the great quantity of masts; and aymed to have Croningsburgh castle in their hands, as a security for the money expended in their assistance, in a warr which they themselves had drawn him into.

And as to their trade in the East Indies, where they were superior at sea, they had swallowed up all, in their own intentions, where theire way was. If England, or any other nation, had driven a good and profitable trade with any of the people in those parts, they would proclaime warr against that people, and lay a ship or two at sea before the ports where the trade was, which they called a blocking-up, and by colour thereof seize upon all ships going in or out of those parts, as coming or going to or from an enemies countrey; and on this pretence seized upon three English ships in the East Indies, richly loden, and converted to their own use, the news whereof came about the same time when these negociations were on foot in the Sound, and satisfaction being demanded of them, they at first seemed to justify the fact; but being told in plain terms, that if the true value of the goods and ships were not paid by a day prefixt, according as they had been worth if they had arrived safe in Europe, that wee would take our own satisfaction by force, they complyed, and paid to the merchants concerned, in ready money, the full value aforesaid.

But there were no greater considerations in England, in reference to foraigne interests, than how to obviate the growing greatness of the Dutch.

This seat of affairs in the Sound, tho' raised by themselves, seemed to give occasion of obviating that part of their designes which related to the Baltick Sea. The Swede was incensed against them, as the authors of all that ruine that had befell him in Poland and elsewhere, and would have proclaimed open warr against them, if he could have engaged England with him therein.

The King of Denmark himself grew weary of their assistance, and exprest great discontent at the advantage they made of his necessities; and saw, that in the end of the war, though he should be saved from being swallowed up by the Swede, yet he should be left in the power of the Dutch.

England was at that time in amity and friendship with both the Kings of Sweden and Denmark, treaties having been concluded between them in the year 1654, and an entire disposition to continue so. That with the Swede was more confident, but nothing had hap'ned of offence with Denmark since the conclusion of the treaty with them; but on the contrary, that king took the mediation of England between him and Sweden in the yeare before, on which the peace of Roskild followed, as an act of great friendship, and sent letters of gratitude for the same.

That then, which seemed to be England's true interest on this occasion, was to employ their utmost efforts to accommodate the interests of these kings in such manner, that a peace might be made between them with mutual satisfaction.

The Means that England propounded to itself, were these:

1. That Englaud and France should use their joint endeavours to bring the Swede to abate of his demands of the Danes, and wholly to quitt his designs upon Denmark,

which he could not prosecute without giving jealousy to his neighbours; and instead thereof, to prosecute his first design against the House of Austria, following therein the example of Great Gustavus, and wherein England and France would give him effectual assistances of men and money if he needed them.

2. By the same joynt endeavours to induce Denmark, thus delivered from the warr, to a conjunction with the King of Sweden, and to favour the designe the other way, England and France becoming the sponsors of the peace and amity between them.

3. To let the King of Denmark see the ill effects of his friendship with the Dutch, and of following their counsells, who had many times engaged him to the hazard of his crownes meerly to serve their interests, without any prospect of advantage to himself. Thus they engaged him against England, 1652, and now against Sweden; and when by this meanes he was reduced to extremity, they imposed upon him unreasonable terms of assistance; yea, if at any time they saw it their advantage they would assist against him, as in the year 1644, in the warr between Sweden and Denmark, they assisted the King of Sweden against him, and obliged the Dane thereby to yield a great part of his dominions to the Swede, which he holds to this day.

And in case the King of Denmark should apprehend this aright, then to propound to him a confident and intimate alliance with England, upon whose friendship he might depend in case of any rencounter with his neighbours, on the one hand or the other, and thereby be freed from his dependance upon the Dutch, who partly by overcoming him with their great fleets, and partly by corrupting his counsells, still made their friendship of such absolute necessity to him, that he must comply with them in all things.

4. Ministers were sent both from England and France to the Elector of Brandenburgh, to invite him into this league, and to drawe him off from such alliances as might be contrary hereunto.

5. There was a particular treaty on foot with Sweden for the pre-emption of all their copper, to prevent the Dutch of that commodity.

6. England and France were desirous also to reconcile the differences between Sweden and Poland, that a good correspondence might be also held with that kingdom, being the ancient ally of France, and useful to England in respect of our trade to Dantzick and the townes in the Regall Prussia.

This was thought the best way that these affairs could be put into, in reference to the English interests in those parts, and England being at the same time upon solid terms of friendship with France, and having the advantage of the ports on both sides the narrow seas, whence they could easily disturb their traffick through the Channel, and did not doubt to make use of this state of things to bring the Dutch, either by fair means or force, to those terms of neighbourhood that were just and necessary. But these counsells died with the author of them.

It came to be considered, what measures were to be taken in reference to the two crowns of France and Spain.

The State of the Case between Denmark and Sweden.

In the year of our Lord 1654, on the 15th of September, a league of amity and friendship was concluded, and afterwards on both sides ratified between the King and Kingdom of Denmark on the one part, and the Lord Protector and Commonwealth of England, Scotland, and Ireland, &c. on the other part, whereof this is the first article:—

ARTICLE I.

Quod ab hoc die erit firma, integra et sincera Amicitia, Pax, et Confœderatio, tam Mari quam Terrâ, et Aquis dulcibus, inter Regem Regnumque, Daniæ et Norvegiæ, et Protectorem et Rempublicam Angliæ, Scotiæ, et Hiberniæ, nec non Dominia, Regiones ac Civitates sub utriusque ditione positas, Populumque, Incolas et subditos alterutrius, cujuscunque, gradus et dignitatis; ita ut neutra pars, Populusve aut subditi alterutrius, neque per alios, directè vel indirectè quicquam agat, vel quantum in se est, agi permittat in dammum aut præjudicium alterius, verùm altera alteram bonis officiis adjuvabit atque alterius rem et commodum pro virili promovebit. That is to say,

That from this day shall be a firm, entire, and sincere amity, peace, and confederacy, as well by sea as land, and fresh waters, between the King and Kingdom of Denmark and Norway, and the Protector and Commonwealth of England, Scotland, and Ireland, together with the dominions, countries, and cities in the jurisdiction of either; as also between the people, inhabitants, and subjects of both, of what degree or dignity soever; so as neither part, people, or subjects of either, neither by themselves nor others, directly or indirectly, may do any thing, nor, as much as in them lies, may suffer to be done, to the damage or prejudice of the other; but that the one shall aid the other by all good offices, and shall advance the welfare and profit of the other to his utmost power.

Three years after this league thus made, that is to say, in the year 1657, after the Danes had received many great and notorious wrongs and injuries from the King and Kingdom of Sweden, and being further threatned by them to be worse dealt with, as may be seen more at large in the Danish manifesto, called *Jus feciale Armatæ Daniæ*, they betook themselves to their arms. But this war being ended through the mediation of England and France, and the peace concluded at Rotshilt in February last, was signed by the publick ministers of the most Christian king, and his late Highness the Lord Protector, who thereby became sureties for the same, as is more fully set forth in a relation of the affairs between the two northern kings, printed in this city about a month since.

This peace the King of Sweden kept till he had got into his hands four or five provinces, wherein were many strongholds, and had received other advantages granted to him by the said treaty of peace; but being bound by the same to quit all the territories of the King of Denmark, in which at that time his army lay quartered, instead of marching away, he marched back again into the Isle of Zealand; besieged the castle of Cronenburg and took it; laid also siege to Copenhagen, which although it succeeded not, yet he threateneth to besiege again, and he should have no better success than he had before, he endeavoureth to engage us in his quarrel, and by the help of our navy to make himself master of the three northern kingdoms, as he is already of the Baltick sea and the ports thereof.

In the beginning of this second invasion, the King of Denmark made full account that the most Christian King of France, and his late Highness the Lord Protector, were bound in honour to see the contents of that treaty of peace, whereof they were mediators and sureties, as well performed on the Swedish side as he had done on his, and implored their aid to that purpose; but finding no relief from England, (whether the indisposition of his highness, or something else was the cause) he sought for aid from such of his neighbours as had tenderness enough not to see a king and all his royal progeny

unjustly oppressed: amongst those friends and neighbours were the States General of the United Provinces, who were bound to defend him by a defensive league, concluded between them and that king in the year 1649. But before they came to put in execution what they were obliged to do, they endeavoured to satisfy his highness concerning the justice and necessity thereof, and to demonstrate to him the inconveniencies that would arise to the Commonwealth of England itself, if the King of Sweden should be pleased to co-operate with them for the composing of those differences which were grown to that height between the two northern kings: and his said highness being deceased, they continued to use the same instance with this present Lord Protector, declaring that they intended nothing but what might be equally to the good and profit of this nation, as well as of their own, in any liberty or priviledge of trade and navigation, not desiring the least advantage to their own subjects more than to us, although their endeavours to preserve those liberties had already been expensive to them, both in blood and treasure.

From these precedent considerations, we may propose these following queries:

I. Whether the Commonwealth of England, &c. can in consequence break their publick faith and treaty with Denmark, without any cause given?

II. Whether the said commonwealth be not bound in honour to see the treaty of peace between the two northern kings, whereof his late highness was mediator and surety, performed on both sides; obliging him who hath violated the treaty, to give due reparation for the damage received by the party injured?

III. Whether it be for the interest of the English in their trade and navigation to the Baltick sea, that all the eastland commodities be in the power of one prince, who either may withhold them, or raise thereupon any arbitrary tolls and customs, though never so excessive?

IV. Whether it be very safe for this commonwealth, that one prince should be the sole dominator of all the north, and whether England hath not reason to fear the same inconveniencies from thence which it has felt heretofore, when those three kingdoms had but one king, and he still to contest with those Vandalick cities, which now are in the King of Sweden's power?

V. Whether the offers and desires of the States General, that we would join with them to the composing of those differences between the two northern kings, by way of mediation, be not rather to be accepted than that we should involve ourselves in an unjust and dangerous war, wherein a victory may prove of worse consequence to our own country than any overthrow?

VI. Or whether conscience, honour, our trade and navigation, and our fleet, yea, the safety of the state, ought to be set at stake to gratify the French, our friends at present, who doubtless for one of these two reasons, endeavour to engage us in this overhasty war, against both our interests and our allies; either that they may thereby advance and enlarge their conquest upon the German empire, and make themselves masters of all Flanders, this campaign; or rather that they may set all protestant princes and states at variance, then make peace with Spain, and so at last extirpate the protestant religion, having first weakened the defenders thereof by their own arms?

A List of the Names of the Persons returned to serve in Parliament in the Year 1656, for the several Counties and Corporations within the Commonwealth of England, Scotland, and Ireland, and the Dominions thereunto belonging.

This parliament was called after the Protector's arms had been successful in the Spanish war. Lord Clarendon mentions the circumstances under which it assembled, and the art used to secure a majority for Cromwell's interest, which was so successful, that the House made him the celebrated offer of the crown:—"Cromwell now thought his reputation both abroad and at home so good, that he might venture again upon calling of a parliament, and by their countenance and concurrence suppress or compose those refractory spirits which crossed him in all places; and having first made such sheriffs in all counties as he thought would be like to contribute to his designs, by hindering such men to stand against whom he had a prejudice, at least, by not returning them if they should be chosen, and procuring such persons to be returned as would be most agreeble to him, of which there were choice in all counties; and having prepared all things to this purpose, as well as he could, he sent out his writs to call a parliament to meet at Westminster, upon the seventeenth of September, in the year 1656. When upon the returns, he found that though in some places he had succeeded according to his wish, it was in others quite the contrary, and that very many members were returned who were men of the most notorious malignity against him; he therefore resorted to his old security, to keep all manner of persons from entering into the house who did not first subscribe that they would act nothing prejudicial to the government as it was established under a protector; which being tendered, many members utterly refused, and returned into their countries, where they were not for the most part the worse welcome for insisting upon their priviledges and freedom of parliament."—CLARENDON, III. 460.

BEDFORD.

William Butler, Kt.
John Harvey
Richard Wagstaff
Samuel Bedford
Richard Edwards

Bedford Town.

Thomas Margets.

BERKS.

William Trumball
John Southby
Edmond Dunche
John Dunche
William Hide

Abington.

Thomas Holt

Reading.

Sir John Barkstead
Daniel Blagrave

BUCKINGHAM.

Lord Whitlock
Sir Richard Piggot
Richard Grenvile
Richard Ingoldsby
Richard Hamden

Buckingham Town.

Francis Ingoldsby

Ailesbury.
Thomas Scot

Chipping-Wicomb.
Major-General Tobias Bridge

CAMBRIDGE & ELY.
Sir Francis Russel, Bart.
Robert Castle
Henry Pickering
Robert West

University.
Lord Richard Cromwell

Cambridge Town.
Alderman Richard Tymbes.

Ely.
John Thurloe
William Fisher

Chester.
Sir George Booth, Bart.
Thomas Marbury
Richard Leigh. Peter Brook.

Chester City.
Edward Bradshaw

Cornwall.
Francis Rous. John St Aubin
Anthony Rous
Anthony Nichol
Richard Carter
Thomas Ceely
William Braddon
Walter Moyle
Launceston. Thomas Gewen
Truro. Walter Vincent
Penryn. John Fox
Castlow & Westlow. John Buller.

CUMBERLAND.
Major-General Charles Howard
William Briscee

Carlisle.
Scoutmaster-General Downing.

Derby.
John Gell
Sir Samuel Sleight
Thomas Saunders
German Pole
Derby Town. Gervase Bennet

Devon.
Sir John Northcot, Bart.
Sir John Young
Robert Rolle
Arthur Upton
Thomas Reynel
William Morrice
Henry Hatsel
Edmond Fowell
John Hales
John Dodderidge
Thomas Saunders

Excester.
Thomas Bampfield
Thomas Westlake
Plymouth. John Maynard
Timothy Alsop

Dartmouth, Clifton, Hardness.
Edward Hopkins
Totnes. Christopher Maynard
Barnstable. Sir John Coppleston
Tiverton. Robert Shapcot
Honiton. Samuel Searle

Dorset.
Col. William Sydenham
John Bingham
Robert Coker
John Fitz-James
James Dewey
John Trenchard

Dorchester.
John Whiteway

Weymouth & Welcomb-Regis.
Deanis Bond
Lyme-Regis. Edmond Prideaux
Poole. Edward Butler

DURHAM.
Thomas Lithame
James Clavern
Durham City. Anthony Smith

YORK. *East-Riding.*
Sir William Strickland
Hugh Bethel, junior
Richard Darley
Henry Darley

West Riding.
Lord Lambert
Francis Thrope
Henry Tempest
Henry Arthington
Edward Gyll. John Stanhop

North Riding.
George Lord Evre
Col. Robert Lilburn
Luke Robinson
Francis Lassels

York City.
Lord Widdrington
Thomas Dickenson

Kingston upon Hull.
William Lyster
Beverley. Francis Thrope

Scarborough.
Edward Salmon
Richmond. John Bathurst

Leeds.
Francis Alanson, senior
Adam Baynes
Hallifax. Jeremy Bently

ESSEX.
Sir Thomas Honywood
Dionysius Wakering
Henry Mildmay
Carew Mildmay
Sir Richard Everard, Bart.
Robert Barrington
Dudley Templer
Oliver Raymond
Edward Turner
Sir Thomas Bowes
Hesck. Hains. John Archer
Sir Harbottle Grimstone

Colchester.
Henry Laurence, Lord President
John Maidstone
Maldon. Joachim Matthews

GLOUCESTER.
George Berkeley
John Howe
John Corfts
Baynham Throckmorton
William Neast

Gloucester City.
General John Disbrow
Thomas Pury, junior
Tewksbury. Francis White
Cirencester. John Stone

HEREFORD.
Major-General James Berry
Edward Harloe
Bennet Hoskins
Benjamin Mason
Hereford City. Worth Rogers
Leomster. John Birch

HERTFORD.
William Earl of Salisbury
Sir Richard Lucy, Bart.
Sir John Wittronge
Sir John Gore
Rowland Litton
St. Albans Albon Cox

Hertford Borough.
Isaac Puller

HUNTINGTON.
General Edward Montague
Henry Cromwell
Nicholas Pedley
Huntington Borough. J. Barnard

KENT.
John Dixwell
William James

Henry Oxinden
Sir Thomas Style, Bart.
John Boys
Lambert Godfrey
Richard Beale
John Seyliard
Ralph Welden
Richard Meredith
Daniel Shatterden

Canterbury City.
Thomas St Nicholas
Vincent Denn
Rochester City. John Parker
Maidstone. John Banks
Dover. Major General Kelsey
Sandwich. Mr Firberne
Quinborough. Gabriel Livesey

LEICESTER.
Thomas Beaumont
Francis Hacker
William Quarles
Thomas Pochen.

Leicester Borough.
Sir Arthur Haslerig
William Stanely

LINCOLN.
Thomas Hall
Thomas Lister
Thomas Hatcher
Edward Rossiter
Charles Hall
William Woolley
Francis Fiennis
William Savile
William Welby
Charles Hussey

Lincoln City.
Original Peart
Humphry Walcot
Boston. Sir Anthony Irby
Grantham. William Ellis
Stamford. John Weaver

Great Grimsby.
William Wray

MIDDLESEX.
Sir John Barkstead
Sir William Roberts
Challenor Chute
William Kiffen

Westminster.
Col. Edward Grosvener
Edward Cary

London.
Thomas Foot, Alderman
Sir Christopher Pack
Thomas Adams, Aldenman
Richard Brown
Theophilus Biddolph
John Jones

MONMOUTH.
Major-General James Berry
John Nicholas
Edward Herbert

NORFOLK.
Charles Fleetwood
Sir John Horbart, Bart.
Sir William Doily
Sir Ralph Hare, Bart.
Sir Horatio Townshend
Philip Woodhouse
Robert Wilton
Robert Wood
John Buxton
Thomas Sotherton

Lyn-Regis.
General John Disbrow
Major-General Skippon
Guibon Goddard

Norwich City.
Bernard Church
John Horbart

Great Yarmouth.
Charles George Cock
William Burton

NORTHAMPTON.
Sir Gilbert Pickering, Bart.

Lord Cleypool
Major General William Boteler
James Langham
Thomas Crew
Alexander Blake

Peterbourge.
Francis St John

Northampton Town.
Francis Harvey

NOTTINGHAM.
Major-General Edward Whalley
Edward Clud
Edward Nevil
Peniston Whalley

Nottingham Town.
Col. James Chadwick
William Drury, Alderman

NORTHUMBERLAND.
William Fenwick
Lord Widdrington
Robert Fenwick

Newcastle upon Tyne.
Walter Strickland

Berwick.
Col. George Fenwick

OXFORD.
Charles Fleetwood
William Lenthall
Robert Jenkinson
Miles Fleetwood
Sir Francis Norris
University. Nathaniel Fiennis
Oxford City. Richard Croke
Woodstock. Maj.-Gen. W. Packer

RUTLAND.
William Shield
Abel Barker

SALOP.
Thomas Mackworth
Philip Young. Samuel More
Andrew Loyd

Shrewsbury.
Col. Humphry Mackworth
Samuel Jones
Bridgenorth. Edward Waring
Ludlow. John Aston

STAFFORD.
Sir Charles Wosley
Thomas Crompton
Thomas Whitgreave

Litchfield.
Thomas Minors

Stafford Town.
Martin Novel

Newcastle on the Lyne.
John Bowyer

SOMERSET.
General Disbrow
John Buckland
Alexander Popham
Robert Long. John George
Francis Luttrell. John Ash
John Harrington
Lislebone Long
William Whindham
Francis Roll
Taunton. Robert Blake
Thomas Georges
Bath. James Ash
Wells. John Jenkyn
Bridgwater. General Disbrow
Bristol. Robert Aldworth
John Doddridge

SOUTHAMPTON
Lord Richard Cromwell
Major-General William Goffe
Robert Wallop
Richard Norton
Thomas Cole
John Bulkley. Richard Cob
Edward Hooper, senior
Winchester. John Hildesley

Southampton Town.
John Lisle, Lord Com.

Portsmouth. Thomas Smith
Isle of Wight. William Sydenham
Thomas Bowreman
Andover. Thomas Hussey

SUFFOLK.
Sir Henry Felton
Sir Thomas Bernidston
Henry North
Edmond Harvey
Edward Wineve
John Silkmore
William Bloys
William Gibbs
Robert Brewster
Daniel Wall
Ipswich. Nathanael Bacon
Francis Bacon
Bury St Edmunds. Sam. Moody
John Clark
Dunwich. Francis Brewster
Sudbury. John Fothergill

SURREY.
Sir Richard Onslow
Arthur Onslow
Francis Drake
Lewis Audley
George Duncomb
John Blackwel, Junior
Southwark. Samuel Highland
Peter de la Noy
Guildford. Maj. Gen. Tho. Kelsey
Ryegate. John Goodwin

SUSSEX.
Herbert Morley
Sir John Pelham
John Flagg
John Stapley
Anthony Sherley
George Courthope
Sir Thomas Rivers, Brt.
Sir Thomas Parker
Chichester. Henry Peckham
Lewes. Anthony Stapely
Rye. Mr Hayes
Arundel. Sir John Trevor

WARWICK.
Richard Lucy
Sir Roger Burgoyne
Edward Peyto
Joseph Hawkesworth
Coventry City. William Purefoy
Robert Beake

Warwick Borough.
Clement Trockmorton, Junior

WORCESTER.
Major-General James Berry
Sir Thomas Rous, Bart.
Edward Pitt
Nicholas Lechmore
John Nanfan
Worcester City. Edmond Giles
William Collins

WILTS.
Sir Anthony Ashley Cooper
Sir Walter St John, Bart.
Alexander Popham
Thomas Grove
Alexander Thistlewaite
John Bulkeley
Richard Grubham How
William Ludlow
Henry Hungerford
Gabriel Martyr
New Sarum. William Stone
James Heely
Marlborough. L. G. Ch. Fleetwood
Devizes. Edward Scotton

LANCASHIRE.
Sir Richard Houghton
Col. Standish
Col. Holland
Westmoreland. Christopher Lister
Thomas Burton

WALES.
George Twisleton
Griffith Bedwrda
Col. Philip Jones
Evan Lewis
Col. John Clarke
James Philips
Lord Cleypole
Major-General Rowland Dakins
John Glyn

Robert Williams
Col. John Jones
Col. John Cartar
John Trevor
Edmond Thomas
John Price
Hugh Price
Charles Lloyd
John Upton
George Gwyn
Henry Williams

SCOTLAND.

Col. Mitchel
Col. David Barclay
Col. Winthrope
Sir John Wemys, Lord of Boghe
Sir Edward Rhodes
Godfrey Rhodes
Col. Talbot
John Lockhart
Lord Cockrum
Mr Desbrowr
Judge Swyntoun
Mr Kerr
Judge-Advocate Whalley
Judge Smith
Col. Salmon
Sir James Mac-dowel
The Earl of Tweedale
Robert Woosley
Sir Alexander Wedderburn
Col. Henry Markham
Col. Whetham
Lord President Broghill
Lord Provost Ramsay
Commissary Lockhart
Scoutmaster-General Downing
Alexander Dowglas

IRELAND.

Lord Broghill
Major-General Jephson
Vincent Gookin
Sir John Reynolds
Col. Abbot
Mr Halsey
Col. Sadler
Major Redman
Major Owen
Sir Theophilus Jones
Sir Hardress Waller
Major Morgan
Mr Bisse
Mr Tigh
Col. Fowke
Major Aston
Mr Blagny
Lieutenant-Colonel Newborough
Lieutenant-Colonel Berisford
Ralph King
Col. Cooper
Lieutenant Colonel Tragle
Col. Ingoldsby
Walter Waller
Sir Robert King
Col. Bridges
John Davis
Major Potter
Major Ratlife
Col. Suttleworth

Monarchy asserted to be the best, most ancient, and legal Form of Government; in a Conference had at Whitehall with Oliver Cromwell and a Committee of Parliament, April, 1657, made good by the Arguments of Oliver St John, Lord Chief Justice, Lord Chief Justice Glynne, Lord Commissioner Whitlock, Lord Commissioner Lisle, Lord Commissioner Fiennes, Lord Broghill, Master of the Rolls, Sir Charles Wolsely, Sir Richard Onslow, and Colonel Jones, Members of that Committee. First Published in 1660, and, as Anthony a Wood says, by Nath. Fiennes.

No part of Cromwell's history is more deeply interesting than that which respects the offer of the crown. Ludlow, who must have known much of the secret machinery by which that measure was brought forward and thrown out, gives the following account of the circumstances attending it:—"Many objections being made in the house against the instrument of government, Cromwell, who was vehemently desirous to be a king, began to think it altogether insignificant to that purpose, and that it would be more conducing to his design if a new form were drawn up and presented to the assembly for their approbation. Accordingly it was prepared by his creatures, and brought into the house by Mr Pack, an alderman of London, where it was without much difficulty read, and appeared to be a shoe fitted to the foot of a monarch; though at present a blank was left for the title of the single person who, with two houses, was to have the supreme legislative power.

"Those who were of the major-generals' and soldiers' party, finding that Cromwell was abandoning them to espouse another interest, struck in with those who still retained some affection to the commonwealth, and all together, perceiving that these new measures had been advised by the craft of our old enemy, to make use of Cromwell's ambition as the only probable means to reduce us to our former servitude, fell so furiously upon Pack for his great presumption in bringing a business of that nature into the house in such an unparliamentary way, that they bore him down from the speaker's chair to the bar of the house of commons. But this heat being soon over, the Lord Broghill, Sergeant Glynn, and others, who were acquainted with Cromwell's design, endeavoured to persuade the house to debate the new form, telling them that, being masters of their own resolutions, they might retain as much of it as was good, and reject what was not so. By this means they brought it to be debated; and though they received some opposition therein, yet, when it came to be put to the question, they carried all before them, and grew so hardy to move, that the blank left for the insertion of the title of the chief magistrate might be filled up with the name of king. This motion, though earnestly opposed by Lieutenant-General Fleetwood, was carried also, and the name voted, together with the filling up the two blanks left for the two houses with the words House of Commons and Other House. The latter of these was resolved to consist of seventy persons, to be nominated by Cromwell, and to be approved by the assembly then sitting. But Cromwell, being acquainted with that resolution, and disliking it, as unreasonable that gentlemen's names should be canvassed, and, it may be, their persons reflected on in a public assembly, he obtained it to be left to him to appoint whom he should think fit to compose that Other House. He told them also, that the provision made for his expence, and for maintaining the army and fleet, was not sufficient, and thereby procured a great sum of money to be added to that which at first they designed. Yet, for all this, he scrupled to take upon him the title of king, as a thing scandalous and of great hazard, though at the same time he vilified the former instrument to the last degree; and, after having so highly magnified it when it was established, he compared it to a rotten plank, on which, if a man set his foot, it will break, and leave him. The assembly, well understanding that the cause of his delays was either to be importuned to the thing, or to get time to persuade the army to be of the same opinion with himself, appointed a committee

of their own members to give him their reasons for accepting this title. Amongst others, the Lord Broghill much pressed that passage brought by the apostle in the dispute concerning the abolition of the Jewish worship by the new and living way revealed in Jesus Christ, illustrated by the wife that was put away, who might yet be retaken by her former husband, if she was not married to another; applying this similitude to the present occasion, as if there was no other way to keep out Charles Stuart but by filling his place with another king. Mr Lenthal's argument was very parliamentary and rational, had it been rightly applied; for he pressed him to accept of it because it was proposed to him by the parliament, as he was pleased to call it, whom, he said, he ought not to deny. But he was now arrived to that height of vanity that, though the design of this argument was only to persuade him to accept that which he desired above all things in the world, yet, conceiving it below his grandeur to acknowledge such a prerogative in the parliament alone, he expressed his dislike of it; and though he owned that the reasons they had offered had much weight in them, and that he was convinced there was no evil in the thing, yet he could not think it expedient to accept their offer, because he found that many of the good people of the nation were dissatisfied with it. With this answer he dismissed them for the present, and appointed them to attend him again. In the meantime he endeavoured, by all possible means, to prevail with the officers of the army to approve his design; and knowing that Lieutenant-General Fleetwood and Colonel Desborough were particularly averse to it, he invited himself personally with the colonel, and carried the lieutenant-general with him, where he began to droll with them about monarchy, and speaking slightly of it, said it was but a feather in a man's cap, and therefore wondered that men would not please the children, and permit them to enjoy their rattle. But he received from them, as Colonel Desborough since told me, such an answer as was not at all suitable to his expectations or desires: for they assured him that there was more in this matter than he perceived; that those who put him upon it were no enemies to Charles Stuart; and that if he accepted of it, he would infallibly draw ruin on himself and friends. Having thus sounded their inclinations, that he might conclude in the manner he had begun, he told them they were a couple of scrupulous fellows, and so departed. The next day he sent a message to the house, to require their attendance in the painted chamber the next morning, designing, as all men believed, there to declare his acceptation of the crown. But in the meantime, meeting with Colonel Desborough in the great walk of the park, and acquainting him with his resolution, the colonel made answer, that he then gave the cause, and Cromwell's family also, for lost; adding, that though he was resolved never to act against him, yet he would not act for him after that time. So, after some discourse upon the same subject, Desborough went home, and there found Colonel Pride, whom Cromwell had knighted with a faggot-stick, and having imparted to him the design of Cromwell to accept the crown, Pride answered, 'He shall not.' 'Why,' said the colonel, 'how wilt thou hinder it?' To which Pride replied, 'Get me a petition drawn, and I will prevent it.' Whereupon they both went to Dr Owen, and having acquainted him with what had happened, they persuaded him to draw a petition according to their desires. Whilst this was doing, Cromwell, having reflected on his discourse with Colonel Desborough, and being informed that Lambert and diverse other officers were dissatisfied with his design, sent a message to put off the meeting in the Painted Chamber, and to desire that the house would send a committee to confer with him about the great business that was then depending; intending thereby to gain time, in which he might be fitting the officers for his design. But the house, being risen before his message arrived, and so out of a capacity to appoint any to come to him, the old committee, that had been formerly appointed to that end, thought fit, by virtue of their general instructions, to wait on him to know his pleasure. Accordingly they came to Whitehall, where they attended about two hours, and then, a Barbary horse being brought into the garden for him to see, gave him an occasion to pass through the room where the committee was attending. As he was passing by without taking the least notice of them, one of the messengers put him in mind that they had attended very long, which he, slightly excusing, told them that he thought the house, being risen before his message came to them, had not empowered any persons to come to him. It was answered, that they came to him upon the general instructions which they had formerly received from the house. Upon which he told them, he would send to them some other time. The next morning, the house being in great expectation of a message to appoint the time and place for the acceptance of what they had prepared, some officers of the army coming to the parliament doors, sent in a message to Colonel Desborough, to acquaint him that they had a petition, which they desired him to present to the house; but he, knowing the contents of it, and conceiving it unfit for him to take public notice of it before it was presented, acquainted the house that certain officers of the army had a petition to present

to them, which, having done, and every one supposing that the desires of the officers were conformable to their own, Cromwell's party concluding that no part of the army durst appear for the crossing of his design, it was generally agreed that they should be called in, and have leave to present it with their own hands. Lieutenant-Colonel Mason was chosen by the rest of the officers to deliver the petition, which, when he had done, and the officers withdrawn, it was read. The contents of it were to this purpose:—'That they had hazarded their lives against monarchy, and were still ready so to do in defence of the liberties of the nation; that having observed in some men great endeavours to bring the nation again under their old servitude, by pressing their general to take upon him the title and government of a king, in order to destroy him and weaken the hands of those who were faithful to the public; they therefore humbly desired that they would discountenance all such persons and endeavours, and continue steadfast to the old cause; for the preservation of which they, for their parts, were most ready to lay down their lives.'—This petition was subscribed by two colonels, seven lieutenant-colonels, eight majors, and sixteen captains, who, with such officers of the house as were of the same opinion, made up the majority of those relating to that part of the army which was then quartered about the town. It is difficult to determine whether the house or Cromwell was more surprised at this unexpected address; but certainly both were infinitely disturbed at it. As soon as the notice of it was brought to Cromwell, he sent for Lieutenant-General Fleetwood, and told him he wondered he would suffer such a petition to proceed so far, which he might have hindered, since he knew it to be his resolution not to accept the crown without the consent of the army; and therefore desired him to hasten to the house, and to put them off from doing any thing farther therein. The lieutenant-general immediately went thither, and told them that the petition ought not to be debated, much less to be answered at this time, the contents of it being to desire them not to press the protector to be king, whereas the present business was to receive his answer to what had been formerly offered to him; and therefore desired that the debate of it might be put off till they had received his answer. To this the house having consented, they received a message from Cromwell, that, instead of meeting him in the Painted Chamber, which was the place where he used to give his consent, they would meet him in the Banqueting-House. So the members came to Whitehall, and Cromwell, with great ostentation of his self-denial, refused the title of king."—LUDLOW's *Memoirs*, III. 128.

The following is a list of that party in parliament who carried through the extraordinary vote alluded to. It is given in a republican tract under the title of "A Catalogue of the Kinglings, or the Names of those Persons who voted for a King; the truest that as yet can be gotten, with the Names of the several Counties for which they serve."

Bedfordshire.
Mr Samuel Bedford
Berkshire.
Edmund Dunch
John Dunch
Mr Trumball
Mr Hide
Buckinghamshire.
Ld Commiss. Whitlock
Colonel Ingoldsby
Mr Richard Hampton
Mr Francis Ingoldsby
Cheshire.
Mr Richard Leigh
Mr Peter Brook
Cambridgeshire.
John Thurloe, secretary
Sir Francis Russel
Mr Robert West
Cornwall.
Mr Richard Carter
Mr John Buller
Cumberland.
Captain Howard
George Downing
Mr Briscoe
Derbyshire.
Gervas Bennet
Devonshire.
Dorsetshire.
Attor. Gen. Prideaux
Dennis Bond
Colonel Bingham
Colonel Fitz-James
Durham County.
Capt. Thomas Lilburn
Mr Anthony Smith
Yorkshire.
Doctor Bathurst
Essex.
Gloucestershire.
Captain Stone
Herefordshire.
Captain Mason
Hertfordshire.
Earl of Salisbury
Sir Richard Lucy
Huntingdonshire.
Colonel Montague
Mr Henry Cromwell
Kent.
Leicestershire.
Colonel Hacker
Lincolnshire.
Captain Fiennes
Middlesex.
Sir William Roberts
Westminster.
Colonel Grosvenor
London.
Alderman Foot
Alderman Pack
Monmouthshire.
Norfolk.
Colonel Wood
Colonel Wilton

Major Burton
Northamptonshire. o
Nottinghamshire. o
Northumberland. o
Oxfordshire.
Colonel Nathaniel Fiennes
Mr William Lenthal
Mr Miles Fleetwood
Sir Francis Norris
Mr Jenkinson
Mr Crook
Rutlandshire. o
Shropshire.
Mr John Ashton
Staffordshire.
Sir Charles Ouseley
Mr Nowell, scrivener
Captain Whitgreave
Somersetshire.
Recorder Long
Colonel John Gorges
Mr Robert Aldworth
John Ash, junior
Southampton.
Lord Commis. Lisle
Mr Smith, commissioner of the navy
Major Bowreman
Suffolk.
Mr Francis Bacon
Mr Nathaniel Bacon
Mr Robert Brewster
Surry.
Sir Richard Onsloe
Mr John Goodwin
Mr Duncomb
Mr Drake
Mr De la moy Southwark
Sussex.
Sir John Trevor
Warwickshire.
Mr Clement Throgmorton
Mr Lucy
Major Beake
Worcestershire.
Sir Thomas Rouse
Mr Edward Pitt
Wiltshire
Mr Gabriel Martin
Lancashire.
Colonel Ireland
Westmorland. o
Not known to what counties they belong.
Sir Thomas Wrath
Colonel Bret
Major Beak, lifeguard
Mr Laurence, the president's son
Mr Waller, Sir Hardress's son
Alderman Stevens
Mr Thelwell
Wales.
Colonel Philip Jones
Mr Claypole, called Lord
Mr Trevor
Mr Williams
Judge Glyn
Griffith Bedwerda
Colonel Phillips
Mr Upton
Mr Hugh Price
Mr Lloyd
Mr Herbert
Col. George Twisleton
Col. John Carter
For Scotland.
Lord Cockram
Sir Alexander Wedderbone
Mr Ramsey, provost of Edinburgh
Sir John Weimes
Lord Tweedale
Doctor Douglas
Mr Barclay
Mr Woosley
Commissary Lockhart
Mr Godfrey Rhodes
Mr Lockhart
Englishmen for Scotland.
Colonel Henry Markham
Lord Broghill
For Ireland.
Recorder Bice
Mr Vincent Gooking
Alderman Tighe, mayor
Colonel Raynolds
Major Owen
Major Morgan
Sir Theophilus Jones
Colonel Jephson
Colonel Bridges
Colonel Fouke
Lieutenant-Col. Berisford
Major Aston
Captain Halsey

In all 120, whereof, of the council with the secretary, - - -	5
Of his kindred, - -	12
Officers belonging to the army and navy, in pay	20
Others receiving salaries, and lying under engagements, - - -	33
In all	70

The other fifty are Scots and Englishmen of slight, low, and inconsiderable principles, and will turn any way their master will have them.

Narrative of the late Parliament, (so called,) Anno 1657, apud *Harleian Miscellany*, vol. III. p. 442.

According to Anthony Wood, the following Report of the conference between Oliver Cromwell and the Committee of Parliament, upon this interesting subject, was published by Nathaniel Fiennes, in 1660. 8vo., perhaps in order to procure favour from the restored monarch, by producing the learned arguments in favour of the royal branch of the constitution. It is certain that Fiennes was not molested after the restoration; but, retiring to his estate near Salisbury, died there in 1669.

The Preface.

It may be said (and that very truly) that this island of Great Britain, which (though so called) is, but as it were a span of ground, if compared with many islands in the

universe, hath been a greater stage or field of blood for many centuries of years last past, than any other island or nation in the world, though of far larger dimensions and capacity of people. And what hath been the occasion of those tragical revolutions which have happened therein, (especially in the last age,) is too easy for any impartial man to judge, if he observe the series of the several passages from 1641 to 1659.

The strange jealousies of the government which had crept into the minds of the people, and the desire of change (a thing natural to the vulgar) together with the subtile artifices of the principal engines of the late confusions, who stimulated the disloyalty of the people under a specious pretence of piety and reformation, (when indeed nothing but covetousness and vile ambition as the chief end, and rebellion as the means to attain to that end lay like the snake in the grass,) did diffuse such a general infection through the veins of the whole kingdom, as if nothing but the swords of the incendiaries could have been the instruments to let out that ill blood. They directed their points against the credulous people as well as against the king, who they said had offended; they slaughtered many and many thousands of poor cheated and deluded men, as well as embrued their hands in the blood of their sacred and lawful sovereign; they deceived their ignorant fellow-subjects, as the Turkish emperors are mentioned in story to impose upon their common soldiers, who when their armies were to ford any unpassable river, were wont to persuade them, that as many of them as would throw themselves in and make a pile with their bodies which should fill or dam up that depth, should be sure to go to Elysium.

Thus did these time-reformers wade through the gore of the ignorant people, till they had arrived to the desired shore of their lust and ambition: but no sooner were they gotten into the seat of supremacy, but they fell out amongst themselves (like so many robbers for a booty) who should have the greatest share in the spoil and havock they had made of a rich and opulent kingdom, and who should be the governors to prescribe laws and methods of regimen over the people. And at last the stronger party of them found it was necessary to keep that power they had by arbitrary government, viz. force of arms; such a force as before they dreamed was intended against them.

And when they saw their illegal form of no-government was not like to be long-liv'd, and found by experience that the nation could be no longer supported under, nor relieved from the exorbitancies of their confused anarchy, then they had wit enough to prove by arguments, that monarchy was the only legal, ancient, and necessary form of government; though they had not so much honesty as to restore that king to his throne who had right to rule over them, but endeavoured to set up an usurper: from whence may be concluded, that it was not monarchy alone they first struck at, but the utter exclusion of the royal line.

And this artifice had certainly taken effect, had it not been prevented by the underhand policies of Lambert, and some others of the then ringleaders. For though Cromwell made a seeming denial, yet it might have been fatal to have trusted him too far.

And now, reader, having said this, I think I need not make any apology for the publishing the ensuing collection at such a time as this is—a time which looks so black and dismal; which seems to be, as it were, the ghost or representation in effigy of 1641, a time wherein the government is threatned by two vast extremes, and seems to stand *inter Scyllam et Charybdim*. And I could heartily wish that a due consideration of what is herein contained, may serve to the converting the minds of several persons, who, I fear, are almost ready to revive the good old cause, and act over the old tragedy again.

And seeing regal government is the great basis on which the welfare of this kingdom stands, I wish that all Englishmen would be so far from thinking of the alterations of this admirable constitution, as to bless Almighty God that we have a king already; such a king, whose transcendent clemency towards us, hath far exceeded our deserts; such a king, to whom (next under God) we owe our laws, religion, wealth, liberty, and pro-

perty, and who graciously condescended to pass an act of oblivion upon restoration. Therefore pray for an establishment of the present government to the end of days, as prayeth

A hearty lover
of his king and country,
C. C.

Thursday, the Ninth of April, 1657.

Ordered by the parliament, that a committee be appointed to wait upon his Highness the Lord Protector, in reference to what his highness did yesterday propose in his speech, now reported to the house.

Resolved, That this committee have power to receive from his Highness his doubts and scruples touching any of the particulars contained in the humble petition and advice formerly presented; and in answer thereunto, to offer to his Highness reasons for his satisfaction, and for the maintainance of the resolutions of this house, and such particulars as they cannot satisfy his Highness in, that they report the same to the parliament.

The Names of the Committee.

Lord Whitlock,
Lord Broghill,
Master of the Rolls,
Lord Commisioner Lisle,
Mr Waller,
Lord Chief Justice,
Sir Charles Wolseley,
Gen. Montague,
Col Jepson,
Sir Thomas Jones,
Sir William Strickland,
Col. Thistlethwait,
Ld Commissioner Fiennes,
Sir Richard Onslow,
Sir Richard Lucy,
Mr Secretary,
Attorney of the Duchy,
Attorney General,
Mr Godfrey,
Lord Howard,
Col. Jones,
Col. Carter,
Col. Whitgrave,
Col. Brooks,
Mr Lee,
Mr Jenkinson,
Mr Bampfield,
Mr Drake,
Col. Ingolsby,
Mr Pitts,
Mr Pickering,
Lord Cockram,
Mr Grove,
Mr Lloyd,
Mr Nath. Bacon,
Mr Ingoldsby,
Lord Provost of Edinb.
Mr Bedfor,
Col. Ireland,
Col. Hacker,
Major Wagstaffe,
Mr Francis Bacon,
Mr Downing,
Mr Price,
Maj. Gen. Whaley,
Sir John Reynolds,
Mr Steward,
Sir Christ. Pack,
Mr Lawrence,
Alderman Foot,
Capt. Lilburne,
Sir William Roberts,
Mr Trevor,
Mr Baron Parker,
Mr Tigh,
Sir John Hobart,
Mr Hamden,
Mr Cromwell,
Mr Throgmorton,
Mr Fleetwood,
Mr Philips,
Maj. Gen. Goffe,
Mr Fowell,
Major Audley,
Col. Wilton,
Major Morgan,
Col. Wood,
Maj. Gen. Berry,
Lord Strickland,
Lord Cleypoole,
Mr Barkley,
Major Burton,
Mr Dunch,
Col. Markham,
Major Aston,
Maj. Gen. Bridges,
Sir Thomas Rouse,
Mr Bond,
Col. Fowkes,
Col. Bridges,
Mr Moody,
Col. Grovesnor,
Mr Gorges,
Earl of Tivedale,
Sir John Weesnes,
Dr Dowglas,
Major Beake,
Mr Briscoe,
Capt. Stone,
Mr Lucy,

Col. Harvey,	Sir Edward Roads,	Mr Rouse,
Sir Lislebone Long,	Sir Francis Norris,	Mr Tromball,
Mr Thelwall,	Col. Sydenham,	Mr Burton,

To meet forthwith in the speaker's chamber.

Resolved, That this committee have power to appoint some of their number to attend his highness, to desire him to appoint a time when they may wait upon him according to their votes.

HEN. SCOBELL, Clerk of the Parliament.

The Lord Whitlock, 11 April.

I only understand, that by order of the parliament, this committee are tied up to receive what your Highness shall be pleased to offer, as to your doubts or scruples upon this paper: the very words of the order are, "That the committee have power to attend your Highness, to receive from your Highness your doubts and scruples touching any the particulars contained in the humble petition and advice formerly presented; and in answer thereunto, to offer to your Highness reasons for your satisfaction, and for the maintainance of the resolutions of the house; and such particulars as we cannot satisfy your Highness in, that we may report the same to the parliament, what particulars your Highness shall think fit to object."

Your Highness is pleased to mention the government, as it now is, and seems to some of our apprehensions, as if your Highness did make that an objection, If the government be well, why do you change it? If that be intended by your Highness as an objection in the general, I suppose the committee will give you satisfaction.

Lord Protector.

Sir, I think that neither you nor I, but meet with a very good heart to come to some issue of this great business; and truly that is, that I can assure you I have all the reason and argument in the world to move me to it, and am exceeding ready to be ordered by you in the way of proceeding, only I confess according to those thoughts I have, as I have answered my own thoughts in preparing for such a work as this is. I have made this notion to myself: That having met you twice, at the committee first, and returned you that answer that I gave you then, and the house a second time; I do perceive that the favour and the indulgence that the house shews me in this, is, that I might receive satisfaction: I know they might have been positive in the thing, and said they might have done enough if they had only made such an address to me; they might have insisted upon it, only to offer it, yet I could plainly see it was my satisfaction they aimed at; I think really and sincerely it is my satisfaction that they intend, and truly I think there is one clause in the paper that doth a little warrant that, "To offer such reasons for his satisfaction, and for the maintainance of the resolutions of the house."

Now, sir, it is true, the occasion of all this is the answer that I made, that occasions a committee to come hither, in order to my satisfaction; and truly, sir, I doubt (if you will draw out those reasons from me, I will offer them to you, but I doubt on my part) if you should proceed that way, it would put me a little out of the method of my own thoughts, and it being mutual satisfaction that is endeavoured, if you will do me the favour, it will more agree with my method; I shall take it as a favour if it please you. I will leave you to consider together your own thoughts of it.

Lord Whitlock.[1]

The committee that are commanded by the parliament, and are here present to wait upon your Highness, I do suppose cannot undertake to give the reasons of the parliament, for that they have done; but any gentleman here can give his own particular apprehension for your Highness's satisfaction, and if you will be pleased to go in the way which you have propounded, and either in general or in particular to require a satisfaction from the committee, I suppose we shall be ready to do the best we can to give you satisfaction.

Lord Protector.

I think if this be so, then I suppose nothing can be said by you but what the parliament hath dictated to you, and I think that is clearly exprest that the parliament intends satisfaction; then is it as clear, that there must be reasons and arguments that have light and conviction in them, in order to satisfaction.

I speak for myself in this, I hope you will think it no otherwise: I say it doth appear so to me, that you have the liberty of your own reasons; I think if I should write any of them, I cannot call this the reason of the parliament. In determinations and conclusions, by votes of the several particulars of the government, that reason is dilated and diffused, and every man hath a share of it, and therefore when they have determined such a thing, certainly it was reason that led them up into it; and if you shall be pleased to make me partaker of some of that reason, I do very respectfully represent to you, that I have a general dissatisfaction at the thing, and I do desire that I may be informed in the grounds that lead you, whom I presume are all satisfied persons to the thing, and every part of it; and if you will be pleased to think so fit, I will not farther urge it upon you. To proceed that way, it will be a favour to me; otherwise, I shall deal plainly with you. It doth put me out of the method of my own conceptions, and then I shall beg that I may have an hour's deliberation, that we might meet again in the afternoon.

Lord Chief Justice.

The parliament sent us to wait upon your Highness, to give your Highness any satisfaction that is in our understandings to give. The whole paper consists of many heads, and if your Highness intends satisfaction, the propositions being general, we can give but general satisfaction; and therein we are ready, if that be your Highness's meaning. I think we shall be ready to give satisfaction as far as our understandings.

Lord Protector.

If you will please to give me leave, I do agree truly the thing is a general, as it is either falling under the notion of settlement, that is, a general that consists of many particulars; and truly if you call it by that that it is tituled, there it is general, it is advice, desires, and advice; and that (the truth is) that I have made my objection in, is but to one thing as yet; only the last time I had the honour to meet the parliament, I did offer to them, that they would put me into a condition to receive satisfaction to the particulars. No question I might easily offer something particular for debate, if I thought

[1] The celebrated Bulstrode Whitelocke, author of Memorials of his own Times, to which the historians are greatly indebted. He was a man of unquestionable talents, and of as much integrity as is consistent with his well-known epithet of "the temporizing statesman." Cromwell, finding the pliability of his political principles, and that he joined with great sincerity in his counsels, made him one of his lords commissioners of the treasury, and under Richard Cromwell he was created one of the keepers of the great seal. After the Restoration he sought an audience of Charles II. to crave forgiveness for his constant opposition to the royal cause. The good natured monarch only desired him to live quietly in the country, and take care of his wife and his *one and thirty* children. Whitelocke retired accordingly, and died about 1675.

that would answer the end; for truly I know my end and yours is the same, that is, to bring things to an issue one way or other, that we may know where we are, that we may attain that general end, that is, settlement; the end is in us both, and I durst contend with any one person in the world, that it is not more in his heart than in mine. I could go to some particulars to ask a question, or ask a reason of the alteration, which would well enough let you into the business, (that it might,) yet I say it doth not answer me. I confess I did not so strictly examine that order of reference, or whether I read it or no, I cannot tell you. If you will have it that way, I shall (as well as I can) make such an objection as may occasion some answer to it, though perhaps I shall object weak enough. I shall very freely submit to you.

Lord Chief Justice.

The parliament hath commanded us for that end to give your Highness satisfaction.

Lord Commissioner Fiennes.[1]

May it please your Highness, looking upon the order, I find that we are impowered to offer any reasons that we think fit, either for the satisfaction of your Highness, or maintenance of what the parliament hath given you their advice in; and I think we are rather to offer to your highness the reasons of the parliament, if your Highness's dissatisfaction be to the alteration of government in general, or in particular.

Lord Protector.

I am very ready to say, I have no dissatisfaction that it hath pleased the parliament to find out a way (though it be of alteration) to bring these nations into a good settlement; and perhaps you may have judged the settlement we were in, was not so much for the great end of government, the liberty and good of the nations, and the preservation of all those honests interests that have been engaged in this cause; I say, I have no exception to the general, that the parliament hath thought fit to take consideration of a new settlement or government, but you having done it as you have, and made me so far interested in, as to make such an overture to me, I shall be very glad, if you so please to let me know it, that besides the pleasure of the parliament, may be somewhat of the reason of the parliament for interesting me in this thing, and for making the alteration such as it is. Truly, I think, I shall as to the other particulars swallow this, I shall be very ready to assign particular objections to clear that to you, that may be either better to clear, or to help me at least to a clearer understanding of the things for better good, for that I know is in your hearts as well as mine. Though I cannot presume that I have any thing to offer to you that may convince you; but if you will take in good part, I shall offer somewhat to every particular. If you please, as to the first of the things, I am clear as to the ground of the thing, being so put to me, as it hath been put; I think that some of the grounds upon which it is done, will very well lead into such objections or doubts as I may offer, and will be a very great help to me in it; and if you will have me offer this, or that, or the other doubt that may arise methodically, I shall do it.

[1] "Commissioner Fiennes, son of the Lord Say, a member some time of the Long Parliament, and then a colonel under the Earl of Essex, had the command and keeping of Bristol, but gave it up cowardly, as it is said, for which he had like to have lost his head; he being a lover of kingship and monarchy as well as his father, was taken in by the Protector at his first setting-up to be one of his council, and made commissioner of the great seal, as also keeper of the privy seal; whereby his interest and revenue is raised from two or three hundred per annum, to two or three thousand and more."—*A second Narrative of the late Parliament*, 1658, apud *Harl. Misc. vol. III, p.* 454.

Lord Whitlock.

I am very much assured that all this company is come with the same affection and faithful respect to the publick settlement, as your Highness hath pleased to express. For my part, I do with a great deal of clearness and faithfulness; and in my particular apprehension, I conceive that the method that your Highness mentioned to proceed in, we may answer; and if any gentleman be of another opinion, he will be pleased to correct me in it.

The parliament taking consideration of the present government, and the instrument that doth establish it, seemeth to my apprehension to be of opinion, that it was very fit there should be some course taken for a settlement in the government of the nation by the supreme legislative power; your Highness and the parliament concurring together in it, they found the instrument of government in the original and foundation of it, to require this settlement by the supreme legislative power, in regard of the original of the other, which they did, as I apprehend by some gentlemen's debates upon it, might be an occasion of some doubts and of less stability, if it were left to continue upon the same foundation it is.

That it will not be so clear a settlement and foundation for the preservation of the rights and liberties of the nation, as if we came to a settlement by the supreme legislative power; upon that ground it was taken into consideration, and a settlement brought to effect upon very solemn, full, and candid debates among themselves in parliament.

Their intentions, I suppose, were only these: To provide for the safety and peace of the nations hereafter, to provide for the rights and liberties, both spiritual and civil, of the people of these nations; and in order to make the best provision they could for these great concernments of the people, the petition and advice which they have humbly presented to your Highness, was brought to a determination by them.

For that particular which your Highness did formerly intimate when the parliament did attend upon you, the committee of the parliament, and which you are now pleased to intimate concerning the title, I do humbly apprehend the grounds of that to be these:

The foundation of that title of *Protector* being not known by the law, being a new title, it was thought that the title which is known by the law of England for many ages, many hundred of years together received, and the laws fitted to it, and that to the law, that it might be of more certainty and clear establishment, and more conformable to the laws of the nation, that that title should be that of *King*, rather than that other of Protector. There is much as to the essence of the business, as some gentlemen did apprehend, that the title should be a known title, that hath been in all these times and ages received, and every particular person hath occasion of knowing of it, and of his rights applied to it; and likewise of the general rights of the people and their liberties, which have an application to that name; which application cannot be so clear and so certain to a new title, the title of Protector. Some gentlemen I heard reason it, that the title of Protector is only upon the original and foundation as it now stands; but the title of King, besides the constitutions by which it shall be made, will likewise have a foundation upon the old and known laws of the nation; so that there will be both the present constitution, and likewise the ancient foundation of the laws of England to be the basis of the title of King. What changes of this nature may bring of inconvenience with them, can hardly in every particular be foreseen; but it is imagined, that many will be, that possibly we may not be able beforehand to comprehend, but there seems to be more of certainty and stability, and of the supreme authority, civil sanction upon that title, than upon the other. This I humbly apprehend to be one reason, concerning both the establishment of the whole; and as to that particular, which I think is the first part of it your Highness seemed to intimate.

Master of the Rolls.[1]

May it please your Highness, I am very glad that there is such a latitude as we may shew ourselves here, as I know the parliament intends to give your Highness all satisfaction as may be: And truly I say upon the first head, which your Highness is pleased to call a title, as if it were a bare title, which I must humbly crave pardon if I do not think, nor the house did not think, but it carries more in it of weight than a meer title; for upon due consideration you shall find that the whole body of the law is carried upon this wheel, it is not a thing that stands on the top meerly, but runs through the whole life and veins of the law; you cannot almost make any thing, or do any thing; look upon all our laws ever since we had laws, look upon all the constitution, still there is such an interest, not of the title, but of the name king, besides the title, (that is not the thing) for the title you may rather tie it to the person than the thing, but the word king doth signify the person. Now, sir, we do see in all the ways of our proceedings in the maintaining of the rights, properties, and interests of the people, and of the prerogative of the chief magistrate, that the very office carries on the business and not the title, and yet it must be such a title too as implies the office, and makes the office suitable to the law; it is the office that doth dignify the person, not the person the office: I shall crave your highness's pardon if I speak any thing amiss, we see that it is the very office that carries on, and not the person; yet that office must have a suitableness. I have observed all along, that we have had many debates that have arisen in this nation about the thing; but the ground and reason why they have adhered to this title, was for the maintenance of their liberties, not for the change of the office. I must confess, I do not see that the other title will do the same thing; that other title hath no further latitude nor extent but the very instrument: It goes no further, for the very instrument is the foundation of it; we can find no further instrument original: We have had those names heretofore, but never grounded upon the thing itself, but grounded upon the office of a king; they had no office or duty to perform, but what was under the office and duty of a king: It is very true, it is not so now certainly, for you have now a title upon that foundation that is your instrument, and it can reach no further; it is a title that I cannot see, I must confess: But if we have a good magistrate and good officers, it may extend whither it will, it hath no limit at all; but the chief magistrate, if he should prove otherwise, you have no limit by it by any rule of law that I understand: If you please, give me leave to tell you, the very instrument does give a foundation to the title of Protector, I am sure, to cross if he please, the most fundamental points that the law hath. There was a time when a prince of this nation (a very late time too) would change this name, and it was a very slender change, for it was but from the King of England, to the King of Great Britain, and this was presented to the parliament; it had a debate of many days, and it was resolved there and settled, that they could not change it: There was so much hazard in that change, they knew not but that all their rights and liberties might be

[1] "William Lenthal, a counsellor at law, made speaker of the Long Parliament by the late king, sat it out in all changes, weathered many a storm and high complaint against him, and was too hard and wieldy for all his opposers; his policy and good hap carried him on so that he ended his being speaker with the ending of that parliament. For the time of his sitting he advanced his interest and revenue very much; became master of the rolls; purchased lands in others names as well as his own, for fear of the worst. He was to be sure at the change of the government from kingly, or a single person and a house of lords as useless, chargeable and dangerous; as likewise at the making those laws of treason against a single person for the future (not yet repealed.) The Little Parliament, where some of his law-judicature was questioned, being dissolved, and the protector taking the government upon him, he ventured to comply with the rest, notwithstanding the danger, that so he might keep his place and interest, and avoid a new storm or frown from the present power. Men need not seek far, or study much to read him, and what principles he acts by."—*A second Narrative, &c.* III. 458. Lenthall lived to be zealous in the Restoration.

thereby altered: And when the king saw he could not obtain it of the house, he declared by proclamation, that he never intended to take any name upon him that should put a doubt to the liberties and privileges of parliament, and caused this proclamation to be put among the statutes (though indeed it was none;) and because there was a danger he laid it down willingly, only (says he) your divines in the pulpits shall pray for me by the title (King of Great Britain,) and ambassadors shall make their address by that name; but in your laws I will not alter the name. In the parliament there was a question, Whether we should not alter the name of parliament and call it, The representative of the people? But the whole house went upon this ground, that by changing the name of parliament to a representative, we did not know how it might change the very course, ground, and reason of parliament: There is a great deal of thing in the very name. I remember a very honourable person, now with God, was then very earnest for it, for having this name changed, and he did shew many reasons for it; but hearing the debates and reasons against it, he sat down and was satisfied; I think I may name him, it was my Lord Ireton, who did say he was satisfied, it was not fit to be done at that time. It is a famous story in every man's mouth heretofore, where there was but a little intention to change the law, it was a general resolution given by the lords, *Nolumus Leges Angliæ mutare:* It is doubted, yea conceived not possible, to annex the laws and the title of protector together; this I must say, we come now with an intention of a perfect settlement, such as may give safety to the nation, to your person, to the people: For indeed, sir, they are very jealous of their laws and liberties, and have been in all ages; and though it may not have an intention to do such a thing, yet if you have a doubt, it is better and more safe for the chief magistrate to keep that which hath no doubt then.

The parliament laying their interest and their regard to you together, give you this advice, this is *vox populi*, for it is the voice of three nations in one parliament. Upon publick interest the chief thing is the safety of the people; that safety, your will, your judgment, nay, give me leave to tell you, your conscience is bound to it, for it is the principal end of government and governors: This is presented to you by three nations, by the parliament, although you may make your hesitations, yet such a thing is great weight and consequence: I know this, that what I have said may seem to imply, as if we should fall upon a point: By the laws I can say in all generations, this is mine and this is the princes, and the prince cannot do me wrong, nor the council do me wrong, &c. Therefore I think you may safely, and I hope will agree to this particular, as we have presented it: I dare not say that your highness (as it comes as advice from parliament) ought to do so.

The Lord Protector.

I cannot deny but the things that have been spoken, have been spoken with a great deal of weight, and it is not fit for me to ask of any of you, if you have a mind to speak farther of this; but if it had been their pleasure, truly then I think it would have put me in according to the method and way I have conceived to myself, to the more preparedness to have returned some answer: And if it had not been to you a trouble, I am sure the business requires it from any man in the world, if he were in any case, much more from me, to make serious and true answers, I mean such as are not feigned in my own thoughts, but such wherein I express the truth and honesty of my heart; I mean by true answers. I did hope, that when I had heard you so far as it is in your pleasure to speak to this head, I should have then (taking some short notice as I did) have been in a condition this afternoon, if it had not been a trouble to you, to have returned my answer upon a little advisement with myself; but seeing you have not thought it convenient to proceed this way, truly I think I may very well say, that I

had need have a little thoughts of the thing to return an answer to it, lest your debate should end on my part with a very vain discourse, and with lightness, which it is very like to do: I say therefore, if you think to proceed farther to speak to these things, I should have made my own short animadversions on the whole this afternoon, and made some short reply; and this would have ushered me in, not only to have given the best answer I could, but to have made my own objections.

Lord Chief Justice.[1]

Since it is your Highness's pleasure, that it should be spoke now altogether, by those that have any thing to say, I think it will be the intent of the committee and the parliament, to give your Highness satisfaction in all particulars, both substance and circumstance: I confess I waited for objections from your Highness, that being the principal scope of the order: Truly, my lord, I stand up with no confidence that I can add any thing to what hath been said; but because it pleases your Highness to do us the great favour to put us to particulars, I think the question before you is but singly thus: I am already Protector, and I have that office put to the government, whereby we meet the parliament now; we desire you to take upon you the office of king; why do you so?

That which we are to speak here, is no other but that which we can understand was the sense of the parliament, in justification of what they have done: I shall not speak any thing of the government itself, but to this particular, I think the office of a king is a lawful office, and the title too, approved of by the word of God, that's plain. It is plain likewise, it is an office that hath been exercised in this nation from the time it hath been a nation: And I think it is true, that there never was any quarrel with the office, but the male-administration, that I can remember about the ill government: Oftentimes kings have been blamed, and very justly, for their ill government; but we do not read that there was any challenge by the parliament, that this government we desired to be discharged of: If that be true, it is to me a strange ground, having past the scrutiny of so many parliaments, where they did debate *de re*, that in all these debates they did not charge it upon the nation that the place is a burthen in its own nature, and this too, when parliaments have had opportunity to have changed the government. The name of king is a name known by the law, and the parliament doth desire that your Highness would assume that title; these are the grounds why the parliament make it their humble advice and request to your Highness, that you would be pleased to assume that title, and I think there is something more in it: You are now Lord Protector of the three nations by the instrument, and there is a clause of this government, that you should govern according to law, and your Highness is sworn to that government: The parliament doth apprehend that it is almost impossible for your Highness to answer the expectation of the people, to be governed by the laws, and yet you are so tied up, that neither they can rationally call for it, nor you conscientiously do it; and so there is neither Lord Protector nor the people upon a sure establishment, for there stands the case: A king hath run through so many ages in this nation, and hath governed the nation by that title and stile, that it is known to the law; for the law of the nation is no otherwise than what hath been a custom to be practised, as is approved by the people to be good; that's the law and nothing else, excepting acts parliament; and now they have been governed by that title, and by that minister, and by that

[1] "Chief Justice Glyn, sometime a counsellor at law and steward of the court at Westminster, formerly one of the Long Parliament, and that helped to bait the Earl of Strafford, and bring him to the block; was recorder of London, one of the eleven members impeached by the army of treason, and by that parliament committed to the Tower; the Protector, through apostacy assuming the government, took him up and made him a judge, and finding him so fit for his turn, did also make him Chief Justice of England."—*A second Narrative, &c.* III. 457.

office. If so be your Highness should do any act, and one should come and say, My Lord Protector, why are you sworn to govern by the law, and you do thus and thus, as you are Lord Protector? Do I? why, how am I bound to do? why, the king could not have done so: why, but I am not king, I am not bound to do as the king, I am Lord Protector: shew me that the law doth require me to do it as Protector: If I have not acted as Protector, shew me where the law is: why you put any one to a stumble in that case: This is one thing that I humbly conceive did stick in the parliament as to that particular. Another thing is this, you are a Protector, which is a new office not known to the law, and made out of doors: You are called upon that you would be pleased to accept that office of a king, that is, by the whole people: It's the first government that, since these troubles, hath been tendered, by a general and universal consent of the people. Another thing is this, if any should find fault with them, and say, why, how came you to make governments in this case? why, the answer is, We are a parliament, and have your suffrage; you have ever trusted us with all your votes, and we will justify it: But besides, we have not done it neither; we have but settled it upon the old foundations, then the kingship; however some may pretend, a king's prerogative is so large, that we know it not, it is not bounded; but the parliament are not of that opinion. The king's prerogative is known by law, he did expatiate it beyond the duty; that's the evil of the man: But in Westminster-Hall the king's prerogative was under the courts of justice, and is bounded as well as any acre of land, or any thing a man hath, as much as any controversy between party and party: And therefore the office being lawful in its nature, known to the nation, certain in itself, and confined and regulated by the law, and the other office being not so, that was a great ground of the reason why the parliament did so much insist upon this office and title, not as circumstantial, but as essential; yea, it is the head from whence all the nerves and sinews of the government do proceed, as was well said by the master of the rolls: If we put a new head, it's a question whether those nerves and sinews will grow and be nourished and strengthned with that head. I had something in my thoughts which I had forgot; something of an objection. Why are you so pertinacious, or insist so much upon this title? you may apply all the powers and authority unto the office of Protector, and then you will give satisfaction: I must needs say, he that makes this objection, makes it but meerly a name. If any shall say, I am content the Protector shall have the office, but not the name, I think this man is very strait laced; then he puts it meerly upon the word; and truly if there be no more in it, if there be nothing but that word, you have in the ballance with it the desires of the parliament: I beseech you do not break with your parliament for a word. Another objection is, we have been under the Protector, and the judges have taken their office under that government, and the judges have taken their measure by the authority of the king, and have taken it to be the same with that of king, and so go on. I confess that the judges have gone very far that way, and I may not speak my own opinion of this case in this place, but yet it is very well known that there hath been variety of opinions and judgments in this case, even from those that have been judges of the nation; and I do not take the people to be upon a very good establishment, when there shall be doubtings in those that should be best knowing. I would never make a doubt that tends to the shaking of foundations, if I could avoid it. The taking of this office will avoid a doubt, the continuing of the other office may be more uncertain: I would never make a doubt where it may be clear: perhaps the taking of the other would reduce men to satisfaction; there is but a perhaps in the one, and a certainty in the other.

11th of April, Sir Charles Woolesley.[x]

Not only we that are here, but many honest hearts in England, rejoice to see this day, wherein your Highness and the parliament are with so much nearness and affection, debating the settlement of the nation. One reason why your Highness should take this title offered you by the parliament is, because as you stand in relation to the old government you are obliged to the law, yet have not the advantage of the law, which the chief magistrate ought to have. The law knows not a protector, and requires no obedience from the people to him. The parliament desires to settle one so, that the people may know your duty to them, and they their duty to you. The parliament find the minds of the people of these nations much set upon this office and title: God hath by his providence put a general desire of it in the nation, and they think in things not unlawful they ought to hearken, and to be much inclined by the desires of them that sent them, and in such things as are for their good, as this is, to be much provoked thereby to the doing of them.

Truly, sir, it hath been much in the thoughts of the parliament, that the reason why things of late have been so unsettled throughout the nations, hath been because that to the body of this people there hath not been a legal head. The well-being of the head is not more necessary to the wholesome constitution of the body natural, than a right head is necessary to the body politick. I may humbly tell your Highness this nation hath ever been a lover of monarchy, and of monarchy under the title of a king. The name and office hath for above a thousand years been in this nation: though they have often changed their princes, yet never the name nor office. 'Tis the great common law, that is, the custom of the nation, approved good by many ages, to have the office and name of a king: no new law that makes any other can have that validity which the custom of so many ages hath. Sir, the parliament doth judge the safety of your person much concerned to take this title; and 'tis not yourself they look to, (though their hearts are full of honour, I may say it to your Highness, as can be,) but to you as chief magistrate, representing the people, and being head of the law and all magistracy; the people hath a share and concernment in you. We see this hath been the great encouragement of these attempts against your person, that the law did not take notice of you as chief magistrate, and that juries were generally backward to find any guilty for treason, for attempting against you. The parliament cannot think it fit to have their chief magistrate in such a condition. Your Highness hath been pleased to call yourself (as when you speak to the parliament) a servant: you are so indeed to the people, and 'tis your greatest honour so to be. I hope then, sir, you will give the people leave to name their own servant; that is a due you cannot, you will not certainly deny them. Their representatives desire you will serve the people under this title, and were there no other reason, therefore it is the best. I beseech your Highness consider if you should refuse this title the parliament presents you with, you do not only deny yourself the honour they put upon you, but you deny the nation, you deny the people their honour, which by right they ought to have. 'Tis their honour and their just birth-right to have a supreme magistrate with the title of a king. I know, sir, though you can deny yourself, yet you will not deny the nation their due, when their representatives challenge it from you. The parliament have highly engaged all the good people of this nation to make you, who are one of them, (and have been

[x] Sir Charles Ouseley, a gentleman who came something late into play on this side, being converted from a cavalier in a good hour. He became one of the late parliament, which he helped to break, and to set the Protector on the throne; for which worthy service he was, as he well deserved, taken in to be one of his council; was also of the parliament since. A man of constancy, and certainly in his principles much like the wind."—*A second Narrative, &c.* III. 455.

in these troubles their head and leader,) to be their king. And certainly, sir, whatever dissatisfaction may be in this case, it ought not to weigh: if there be any judge on earth of the people's good, 'tis the whole people represented together, and what others say, it is but by individuals. Sir, the parliament have hundreds, nay, thousands, upon their backs, the good people of the nation, a quiet, peaceable people, with you; and what the parliament shall judge fit is their duty, and no doubt they will submit. Sir, were there in this matter no other reason why you should accept this, I know this alone, which indeed is the greatest reason I can give, would sway you above any thing, that what is before you is the advice of your great council the parliament.

Lord Commissioner Fiennes.

I shall offer what I conceive, from their debates, to be the reasons why they advise your Highness to this title; and seeing what is in the fountain must be conveyed by such pipes, I shall clear the state of the question. In the first place, if I mistake not, 'tis only upon name, not upon any thing, not upon the office of a king, but upon the title of a king; for the question is, whether the same thing shall be signified by the office of a king, under the name of a king, or by the office of a king, under the name of a protector. Undoubtedly the office of a king may be more exercised under another name, than it may if the powers be not kingly, though the name be there. He that said he would not do his master's will, and yet did it, did it more than he that said he would, and yet did it not. He that hath all the powers and authorities of a king, is a king, though he hath not the name. Either there must be a diversity, and for any thing that may difference it by the name itself, truly, sir, either this must be done, you must enumerate all the powers of protector, or what is left unenumerated must be the same thing as the law says is the duty of a king, and this, I think, the judges have determined. This being the clear state of the question, the difference will arise meerly upon a name, and the parliament did not think it agreeable to their wisdom for them to look upon all the laws and all the cases, and make the name of protector to suit them, or else leave it lawless and boundless; but what was not confined to the power of a king, was confined to the decision of the law. That being so, the parliament thinks it is fit for them to do as all wise men do, in making names, they give out names according to the nature of the thing; and either they must fit all the laws to the name, and that is impossible, or leave the name unbounded, and that's intolerable. All creatures were brought to Adam to give them names; he gave them according to their natures: and so the parliament considers what the thing is that they were about to advise your lordship to. The parliament find this to be the same government as was before; and if they would have that, why not their old name? If the thing, why not the title? Truly, it seems very reasonable that names should be proportioned to the thing: they have found diverse reasons why the name should be king, because it is a thing clear to all the world, that the people are more willingly obedient to old things and names than to new; and so far as old things can be retained without danger or inconvenience, it is the wisdom and duty of all governors to retain them. I remember in the stories of our wars with the French, Edw. III. had assistance from Flanders. One thing more of the name of the protector be considered within my relation to the laws of this land. Every one knows it does not relate to him that hath the chief magistracy, but as he was tutor or guardian to another; that's all the legal notion or use of the name protector in this land; and the holding this name doth hold forth a gap of apprehension and expectation that there may be a change. These are in substance that which I can remember of the debates of the parliament.

Lord Com. Lisle.[1]

I humbly conceive, that in this title offered to your Highness by the parliament, they do take the same care for your Highness as Jethro took for Moses: they find the weight of the government, as it is now upon you under the title of Protector, is a burthen that will weary both yourself and the people likewise; and therefore they do desire your Highness will be pleased to accept of that title that may be an ease to your Highness and to the people. The greatest weight and burthen of government is when there is a jealousy between the prince and the people for want of a right understanding; though neither parliament nor people have a jealousy of your person, yet of the title they have, for want of a right understanding. But if your Highness will be pleased to accept of the title that is now offered, all jealousies will be done away, for they will then understand what you are; and truly, sir, I think the jealousy will be higher now than at first when the remonstrance was offered to you; for the title of Protector is either the same thing in power with the title of king, or it is something else. If it be something else, then what the title of king is when it is confined, that will raise their jealousy very much. If it be the same thing, then there is nothing of difference but a name; and they will think there is more than a name if the parliament do offer it to your Highness, and your Highness should wave it.

Sir, the parliament did think that your Highness was never able to provide to do justice to the nation for the present, nor that peace should be maintained in the nation for the future, unless your Highness accept of this title. National justice does consist in two things; that you do right to the people with relation to their just rights in relation to the parliament; that you do right to the people in relation to their just rights according to the law of the land. Sir, the nation's rights in parliament can never be done to the people, unless the parliament hath its ancient right in relation to the government; and they can never have their right in relation to the law, unless the laws have their ancient right in relation to the governors. Sir, the reason why the parliament doth now offer it, as I conceive, is this, sir; they did consider the case of David; it was the proper time to offer the title to King David, when the elders of Israel and the people did covenant with King David at Hebron. The remonstrance offered to your Highness is the covenant of the three nations, both for spiritual and civil liberties. If there was a proper time to make David king, when they covenanted with him at Hebron, it is now a proper time for you to accept this title, when the parliament hath brought this with a covenant for the three nations, that relates both to their civil and spiritual liberties.

Lord Broghill.[2]

Sir, I can add so little to what hath been already spoken, that were it not in obe-

[1] "Commissioner Lisle, sometime a counsellor in the Temple; one of the Long Parliament, where he improved his interest to purchase, and bought state lands good cheap. Afterwards became a commissioner of the great seal, and helped, in parliament, to change the government from kingly to parliamentary, or of a commonwealth; changed it again to kingly, or of a single person; and did swear the Protector, at his first installing, chief magistrate, to the hazard of his neck, contrary to four acts of parliament, which he helped to make, with others, that make it treason so to do."—*A second Narrative, &c.* III. 457.

Lisle had been one of the judges of Charles I.; was called to Cromwell's mock house of peers, by the title of Lord Lisle. He gave deep offence to the royalists by sitting as president of the High Court of Justice, and managing the trials of Sir Henry Slingsby and Dr Hewit, when both these zealous loyalists were condemned and suffered. After the Restoration he fled to Lausanne, where he was assassinated by persons supposed to be hired for that purpose by the Duchess of Orleans, daughter of Charles I. James II. carried his revenge to a yet meaner excess, by causing the widow of Lisle, when in the extremity of old age, to be tried and executed for harbouring some of Monmouth's adherents after the battle of Sedgemore.

[2] Roger Boyle, afterwards Earl of Orrery, fifth son of the great Earl of Cork. He was a man of literary as well as political talents. He acted for the parliament against the Catholics in Ireland, but was still thought

dience to command, I should, with much more satisfaction, be silent than now speak; but being under an obligation I may not violate, I shall, in obedience thereof, presume to lay my poor thoughts before you. But first I shall take the boldness to say, I believe it is a thing impossible for any to particularize every individual reason which invites a parliament to pass any vote; for the parliament is a body consisting of many members, and all of them relish those arguments and reasonings which are most consonant to every man's apprehension, in which there is so great variety, that though, when a vote is past, we may conclude that vote is the sense of the house, yet we cannot say that these, and none but these reasons produced that result. I only mention this, sir, that whatever I shall speak may be considered by you but as my poor apprehension; what, in some degree, might have contributed to move the parliament to petition, and advise your Highness to assume the title and office of king. For it would be too high a presumption in any member, especially in me above any, to dare aver that what I should now say did only invite the parliament to give your Highness that counsel. Having thus humbly premised what I held myself obliged unto in duty, I shall now proceed to acquaint you what, in my weak judgment, did in some measure move the parliament to do what they have done.

First, I humbly conceive that the title of king is that which the law takes notice of as the title of supreme magistrate, and no other; and that the old foundations that are good are better than any new ones, though equally good in their own nature: what is confirmed by time and experience, carries along with it the best trial, and the most satisfactory stamp and authority.

Secondly, It was considered too, that it was much better that the supreme magistrate should be fitted to the laws that are in being, than that those laws should be fitted unto him.

Thirdly, The people legally assembled in parliament, having considered of what title was best for the supreme magistrate, did, after a solemn debate thereof, pitch upon that of king; it being that by which the people knew their duty to him, and he the duty of his office towards them, and both by old and known laws.

Fourthly, There are hardly any who own government at all in these nations, but think themselves obliged to obey the old laws, or those which your Highness and the parliament shall enact. So that if the supreme magistrate of these three nations be intituled king, all those who reverence the old laws will obediently and chearfully accept of him, as that which is settled upon the establishment they own; and all that own this present authority will do the like, because grafted by it, by which none can rest unsatisfied that think it a duty to obey former authorities or the present.

Fifthly, The former authorities know no supreme magistrate but by the title of king, and this present authority desires to know him by no other; which, if refused, might it not too much heighten our enemies, who may bolster up their faint hopes with saying to one another, and to those which assist them, that their chief is not only under that title which all past parliaments have approved, but under that title which even this parliament does approve likewise; and that your head is not known by the former laws, and has refused to be known by that appellation which even the parliament, that he himself hath called, doth desire to know him by.

Sixthly, By your Highness bearing the title of king, all those that obey and serve you are secured by a law made long before any of our differences had a being, in the 11th Hen. VII., where a full provision is made for the safety of those that shall serve

to retain some partiality for the king's party. Cromwell, however, contrived to obtain his devoted attachment, and he continued to serve him during his life, and his son Richard after his death, with great fidelity. Lord Broghill was active in forwarding the Restoration in Ireland, and in reward of his services was made Earl of Orrery. He died in 1679, generally esteemed both for talents and virtue.

serve whoever is king. It is by that law that hitherto our enemies have p eaded indemnity; and by your assuming what is now desired, that law, which hitherto they pretended for their disobedience, ties them even by their own profession and principles to obedience: and I hope taking off all pretences from so numerous a party may not be a thing unworthy consideration. That law seems very rational, for it doth not provide for any particular family or person, but for the peace and safety of the people, by obeying whoever is in that office, and bears that title. The end of all government is to give the people justice and safety; and the best means to obtain that end is to settle a supreme magistrate. It would therefore seem very irrational that the people, having obtained the end, should decline that end only to follow the means, which are but conducing to that end. So that if the title and office of king be vested in your Highness, and that thereby the people enjoy their rights and peace, it would be little less than madness for any of them to cast off those blessings only in order to obtain the same end under another person.

Seventhly, There is at present but a divorce between the pretending king and imperial crown of these nations, and we know that persons divorced may marry again; but if the person be married to another, it cuts off all hope. These may be some of those reasons which invited the parliament to make that desire, and to give that advice to your Highness of assuming the title of king. There is another, and a very strong one, which is, that now they have actually given you that advice; and the advices of the parliaments are things which always ought, and therefore I am confident will, carry with them very great force and authority. Nor doth this advice come singly, but accompanied with many other excellent things in reference to our civil and spiritual liberties, which your Highness hath borne a just and signal testimony to. It is also a parliament who have given unquestionable proofs of their affection to your Highness, and who, if listened to in this particular, will be thereby encouraged to give you more.

Lord Protector.

I have very little to say to you at this time; I confess I shall never be willing to deny, or to defer those things which come from the parliament to the supreme magistrate, if they come in the bare and naked authority of such an assembly as known by that name, and are really the representations of so many people, as a parliament of England, Scotland, and Ireland is; I say it ought to have its weight, and it hath so, and ever will have with me. In all things a man is free to answer desires, as coming from parliament; I may say that in as much as the parliament hath been pleased to condescend to me so far, to do me this honour, a very great one added to the rest, to give me the advantage of so many members of theirs, so able, so understanding the grounds of things; it is, I say, a very singular honour and favour to me; and I confess, I wish I may, and I hope I shall do what becomes an honest man to do, in giving an answer to these things according to the desire, that either I have or God shall give me, or I may be helped by reasoning with you into; and I did not indeed in vain alledge conscience to the first answer I gave, but I must say, I must be a very unworthy person to receive such favour, if I should prevaricate, when I said things did stick upon my conscience, which I must still say they do; only I must say, I am in the best way that I can be for information, I shall gladly receive it. Here have been divers things spoken by you to day, with a great deal of judgment and ability, and knowledge; and I think the things, or the arguments, or reasonings that have been used, have been upon these three accounts: To speak to the thing simply, or in the abstract notion of the title, and the positive reasons upon which it stands, and then comparatively, both in the thing and in the foundation of it, in order to shew the goodness of it comparatively. It is alledged to be so much better than what is, and that is so much short of doing the work

that this will do. And thirdly, some things have been said by way of precaution, upon arguments that are little from the thing, in the nature of it, but are considerations from the temper of the people of the nation, what will gratify them, which is surely considerable; as also by way of anticipation of me in my answer, by speaking to some objections that others have made against this thing; these are things in themselves, each of them considerable. To answer to objections, I know it is a very weighty thing, and to make objections is very easy, and that will fall to my part, and I am sure I shall if I make them to men that I know so well how to answer them, because they have in part received them from others, upon the debates already had; but upon the whole matter, I having as well as I could taken these things that have been spoken, which truly are to be acknowledged by me to be very learnedly spoken, I hope, therefore, you will give me a little time to consider of them; when it may be your best time for me to return to you, to meet you again, I shall leave that to your consideration

Lord Whitlock.

Your Highness will be pleased to appoint your own time.

Lord Protector.

On Monday, at nine of the clock, I will be ready to wait upon you.

His Highness's Answer at the Conference at the Committee at Whitehall, April 13. 1657.

My Lord,

I think I have a very hard task upon my head, though it be to give an account of myself, yet I see I am beset on all hands here; I say but to give an account of myself, but it is in a business that is very comprehensive of others, in some sense to us, and, as the parliament have been pleased to make it, all the interests of these three nations.

I confess, I consider two things: First, to return some answer to the things that were so ably and well said the other day, on behalf of the parliaments putting that title in the instrument of settlement. I hope it will not be expected that I should answer to every thing that was then said, because I suppose the main things that were spoken, were arguments from antient constitutions and settlement by the laws, of which I am sure I could never be well skilled, and therefore must ask the more pardon in what I have transgressed in my practice, or shall now transgress through my ignorance of them in my answer to you.

Your arguments, which I say were chiefly upon the law, seem to carry with them a great deal of necessary conclusion, to inforce that one thing of kingship; and if your arguments come upon me to inforce upon me the ground of necessity, why then I have no room to answer, for what must be, must be; and therefore I did reckon it much of my business to consider whether there were such a necessity, or would arise such a necessity from those arguments.

It was said, that kingship is not a title, but an office, so interwoven with the fundamental laws of this nation, as if they could not, or well could not be executed and exercised without, partly (if I may say so) upon a supposed ignorance of the law that it hath of any other title, it knows no other, neither doth any know it; the reciprocation of this said title, or name, or office, as you please to say is understood in the dimensions of it in the power and prerogatives of it, which are by the law made certain, and the law can tell when it keeps within compass, and when it exceeds its limits; and the law knowing this, the people can know it also, and people do love what they know, and it will neither be *pro salute populi*, nor for our safety to obtrude upon them names that they do not, nor cannot understands.

It is said also, that the people have been always by their representatives in parliament, willing to vary names for as much as hath been said before they love settlement. And there were two good instances given of that, the one in King James's time, about his desire to alter somewhat of the title; and another in the Long Parliament, wherein they being otherwise rationally moved to admit of the word representative instead of parliament, they refused it for the same reason. It hath been said also, that the holding to this word doth strengthen the settlement, because it doth not any thing *de novo*, but resolves things in their old current: it is said, it is the security of the chief magistrate, and that it secures all that act under him; truly, these are the principles of those grounds that were offered the last day, so far as I do recollect. I cannot take upon me to refel those grounds, for they are so strong and rational; but if I shall be able to make any answer to them, I must not grant that they are necessarily concluding, but take them only as arguments, that have perhaps much of conveniency and probability towards concluding; for if a remedy or expedient may be found that they are not necessary, they are not inevitable grounds, and if not necessary and concluding, why then they will hang upon the reason of expediency, or conveniency; and if so, I shall have a little liberty, otherwise I am concluded before I speak, and therefore it will behoove me to say what I have; why they are not necessary conclusions, nor that they are, nor that it is (I should say) so interwoven in the laws, but that the laws may not possibly be executed to equal justice and equal satisfaction of the people, and equally to answer all objections as well without it as with it; and then when I have done that, I shall only take the liberty to say a word or two for my own grounds, and when I have said what I can say as to that, I hope you will think a great deal more than I say.

Truly, though kingship be not a title, but a name of office that runs through the law, yet it is not so *ratione Nominis*, but from what is signified, it is a name of office plainly implying a supreme authority, is it more, or can it be stretched to more? I say it is a name of office plainly implying the supreme authority; and if it be so, why then I would suppose (I am not peremptory in any thing that is matter of deduction or inference of my own.) Why then, I should suppose, that whatsoever name hath been, or shall be the name, in which the supreme authority shall act, why, (I say) if it had been those four or five letters, or whatsoever else it had been, that signification goes to the thing, certainly it does, and not to the name; why then there can be no more said but this, why this hath been fixed, so it may have been unfixed, and certainly in the right of the authority, I mean as a legislative power, in the right of the legislative power. I think the authority that could christen it with such a name, could have called it by another name, and therefore it was but derived from that: and certainly they had the disposal of it, and might have had it, they might have detracted, or changed; and I hope it will be no offence to you, to say, (as the case now stands) so may you, and if it be so that you may, why then I say, there is nothing of necessity in your argument, but consideration of expedience of it; I had rather (if I were to chuse) if it were the natural question, which I hope is altogether out of the question; but I had rather have any name from this parliament, than any name without it, so much do I value the authority of the parliament; and I believe all men are of my mind, in that I believe the nation is very much of my mind, though that be an uncertain way of arguing what mind they are of. I think we may say it without offence, (for I would give none) though the parliament be the truest way to know what the mind of the nation is, yet if the parliament will be pleased to give me a liberty to reason for myself, and that be made one argument, I hope I may urge against that, else I can freely give a reason of my own mind; but, I say undoubtingly, (let us think what we will) what the parliament settles in that which will run through the law, and will lead the thread of government through the land, as well as what hath been, considering that what hath been upon the same account, save that there hath been some long continuance of the thing, it is but

upon the same account it had its original somewhere, and it was with consent of the whole there was the original of it, and consent of the whole will, I say, be the needle that will lead the thread through all, and I think no man will pretend right against it, or wrong; and (if so) then under favour to me, I think all those arguments from the law are (as I said before) not necessary, but are to be understood upon the account of conveniency, it is in your power to dispose and settle, and before we can have confidence that what you do settle, will be as authentick as those things that were before, (especially as to the individual thing) the name or title upon parliamentary account, why then I say there will be way made (with leave) for me to offer a reason or two to all that hath else been said, otherwise I say my mouth is stopt; there are very many inforcements to carry on this thing, I suppose it will stand upon a way of expedience and fitness; truly I should have urged one consideration more that I had forgotten, and that is, not only to urge the things for reason, but for experience; perhaps it is a short one, but it is a true one, (under favour) and is known to you all in the fact of it, (under favour) although there have been no parliamentary declarations, that the supreme authority going in another name, and under another title than king, why it hath been complied with twice without. That is, under the *Custodes Libertatis Angliæ*, it hath since I exercised the place, and truly I may say, that almost universal obedience hath been given to all the ranks and sorts of men to both; and to begin with the highest degree of magistracy at the first alteration, and when that was the name, and though it was the name of an invisible thing, yet the very name (though a new name) was obeyed, did pass for current, and was received, and did carry on the justice of the nation. I remember very well, that my lords the judges were somewhat startled, and, yet upon consideration (if I mistake not) I believe so, there being of them, without reflection, as able and as learned as have sat there, (though they did, I confess, at first demur a little) yet they did receive satisfaction, and did act as I said before. I profess it for my own part, I think I may say it, since the beginning of that change, I would be loath to speak any thing vainly, but, since the beginning of that change to this day, I do not think in so many years those that were called, (and worthily so accounted) *Halycon Days of Peace*, in 20 Eliz and King James, and King Charles's time; I do not think but that the laws did proceed with as much freedom and justice, with less private solicitation, either from that that was called then so, or since I came to the government; I do not think (under favour) that the laws have had a more free exercise, more uninterrupted by any hand of power, the judge less sollicited by letters or private interpositions, either of my own or other men's, in double so many years in all those times of peace; and if more of my lords the judges were here than now are, they could tell what to say to what had been done since, and, therefore, I say, (under favour) these two experiences do manifestly shew, that it is not a title, though so interwoven with the laws, that makes the law to have its free passage, and do its office without interruption, (as we think) but that if a parliament shall determine that another name shall run through the laws, I believe it may run with as free a passage as this: which is all that I have to say upon that head.

And if this be so, then truly other things may fall under a more indifferent consideration, and then I shall arrive at some issue to answer for myself in this great matter, and all this while nothing that I shall say doth any way determine against my resolution or thoughts against the parliament, but really and honestly, and plainly, considering what is fit for me to answer. The parliament desires to have this title, it hath stuck with me and yet doth stick, and truly, although I hinted the other day, that it is thought that your arguments to me did partly give positive grounds for what was to be done, and comparative grounds, saying that which you were pleased to do, and I gave no cause for that I know of, that is to compare the effects of kingship with such a name as I for the present bear with protectorship, I say I hope it will not be understood that I do

contend for the name, or any name, or any thing, but truly and plainly (if I speak as in the Lord's presence) I in all things right as a person under the disposition of the providence of God, neither naming one thing nor other, but only answering to this name or title, for I hope I do not desire to give a rule to any body, because I have professed I have not been able, and I have said truly I have not been able to give one to myself, but I would be understood in this. I am a man standing in the place I am in, which place I undertook not so much out of hope of doing any good, as out of a desire to prevent mischief and evil, which I did see was imminent on the nation: I say we were running headlong into confusion and disorder, and would necessarily run into blood, and I was passive to those that desired me to undertake the place which now I have; I say not so much of doing good, which a man may lawfully if he deal deliberately with God and his own conscience, a man may, I say, lawfully if he deal deliberately with God and his own conscience, a man may lawfully, as the case may be, (though the case is very tickle) desire a place to do good in. I profess I had not that apprehension when I undertook the place that I could do so much good, but I did think that I might prevent imminent evil, and therefore I am not contending for one name compared with another, and therefore have nothing to answer to any arguments that were used in giving preference to kingship or protectorship; for I should almost think that any name were better than my name, and I should altogether think, any person fitter than I am for any such business: and I compliment not, (God knows it) but this I should ☞, that I do think from my very heart that in your settling of the peace and liberties of this nation, which cries as loud upon you as ever nation did, for somewhat that may beget a consistance, otherwise the nation will fall to pieces; and in that, as far as I can, I am ready to serve not as a king, but as constable. For truly I have, as before God, thought it often that I could not tell what my business was, nor what I was in the place I stood, save comparing it with a good constable, to keep the peace of the parish, and truly this hath been my content and satisfaction in the troubles that I have undergone, that yet you have peace. Why, now truly (if I may advise) I wish to God you may be but so happy as to keep peace still, if you cannot attain to these perfections as to do this, I wish to God we may have peace, (that do I) but the fruits of righteousness are shewn in meekness, (a better thing than we are aware of) I say, therefore, I do judge for myself, there is no such necessity of the thing, for the other names may do as well, I judge for myself, I must say a little, I think I have somewhat of conscience to answer as to this matter, why I cannot undertake this name, why truly I must needs go a little out of the way to come to my reasons, and you will be able to judge of them when I have told you them, and I shall deal seriously as before God; if you do not all of you, I am sure some of you do, and it behoves me to say I know my calling from the first to this day. I was a person that from my first employment was suddenly preferred and lifted up from lesser trusts to greater, from my first being a captain of a troop of horse, and I did labour (as well as I could) to discharge my trust, and God blessed me as it pleased him, and I did truly and plainly, and then in a way of foolish simplicity (as it was judged by very great and wise men, and good men too) desired to make my instruments to help me in this work; and I will deal plainly with you, I had a very worthy friend then, and he was a very noble person, and I know his memory was very grateful to all, Mr John Hampden.

At my first going out into this engagement (I saw) their men were beaten at every hand; I did indeed, and desired him that he would make some additions to my Lord Essex's army of some new regiments, and I told him I would be serviceable to him in bringing such men in as I thought had a spirit that would do something in the work; this is very true that I tell you, God knows I lye not; your troops, said I, are most of them old decayed serving-men and tapsters, and such kind of fellows, and said I, their troops are gentlemen's sons, younger sons, and persons of quality; do you think that the spirits

of such base and mean fellows will be ever able to encounter gentlemen that have honour, and courage, and resolution in them? Truly, I presented him in this manner conscientiously, and truly I did tell him, you must get men of a spirit. And take it not ill what I say (I know you will not) of a spirit that is likely to go on as far as gentlemen will go, or else I am sure you will be beaten still; I told him so, I did truly. He was a wise and worthy person, and he did think that I talked a good notion, but an impracticable one; truly I told him I could do somewhat in it, I did so, and truly I must needs say that to you, (impart it to what you please) I raised such men as had the fear of God before them, and made some conscience of what they did, and from that day forward, I must say to you, they were never beaten, and wherever they were engaged against the enemy they beat continually; and truly this is matter of praise to God, and it hath some instruction in it to own men that are religious and godly, and so many of them as are peaceably, and honestly, and quietly disposed to live within government, as will be subject to those gospel rules of obeying magistrates and living under authority; I reckon no godliness without this circle; but without this spirit, let it pretend what it will, it is diabolical, it is devilish, it is from diabolical spirits, from the height of Jotham's wickedness; why truly I need not say more than to apply it thus:[1]

I will be bold to apply this to this purpose, because it is my all, I could say as all the world says and run headily upon any thing; I must tender this to you as a thing that sways with my conscience, or else I were a knave and a deceiver. I tell you there are such men in this nation, that godly men of the same spirit, men that will not be beaten down with a worldly nor carnal spirit, while they keep their integrity: I deal plainly and faithfully with you, that I cannot think that God would bless an undertaking of any thing that will justly and with cause grieve them, that they will be troubled without cause; I must be a slave if I should comply with any such humour. I say there are honest men, and faithful men, and true to the great things of the government, to wit, the liberty of the people, giving them what is due to them, and protecting this interest, I think verily God will bless you for it; but if I know (as indeed I do) that very generally good men do not swallow this title, (though really it is no part of their goodness) to be unwilling to submit to what a parliament shall settle over them; yet, I must say, that it is my duty and my conscience to beg of you, that there may be no hard things put upon me; things I mean hard to them, that they cannot swallow. If the nation may as well be provided for without these things that I have printed to you, as according to my apprehension it may, I think truly it will be no sin in you, it will be to you as it was to David in another case; no grief of heart to yours that you have a tenderness, even possibly, if it be their weakness, to the weakness of those that have integrity and honesty, and uprightness, and are not carried away with the hurries that I see some are, who think that their virtue lies in despising authority, opposing it. I think you will be the better able to root out of this nation that spirit and principle, and it is as desirable as any thing in this world, by complying, indulging, and being patient to the weakness and infirmities of men that have been faithful, and have bled all along in this cause, and are faithfull, and will oppose all oppositions; I am confident of it, to the things that are the fundamentals in your government, in your settlement, for civil and gospel liberties.

I confess, for it behoves me to deal plainly with you, I must confess, I would say, I hope I may be understood in this, for indeed I must be tender what I say to such an audience as this is; I say, I would be understood that in this argument I do not make

[1] This very curious account of the manner in which Cromwell matched the chivalrous gallantry of the cavaliers, by enlisting the stubborn and enthusiastical independents, has been often quoted by historians. The conclusion of the paragraph serves also to shew how much he now wished to restrain within moderate bounds, or to muzzle, in some degree, the spirit of fanatical insubordination, which he had himself excited against the ancient government; for being now supreme in authority, he began to see no godliness without the circle of obedience.

parallel between men of a different mind and a parliament which shall have their desires; I know there is no comparison, nor can it be urged upon me, that my words have the least colour that way, because the parliament seems to give liberty to me to say any thing to you, as that is a tender of my humble reasons and judgment, and opinion to them; and if I think they are such, and will be such to them, that are faithful servants, and will be so to the supreme authority, and the legislative, wheresoever it is: If I say I should not tell you, knowing their minds to be so, I should not be faithful if I should not tell you so, to the end you may report it to the parliament: I will say something for myself, for my own mind I do profess it, I am not a man scrupulous about words or names, or such things I have not, but as I have the word of God, and I hope I shall ever have, for the rule of my conscience, for my informations; so truly, men that have been led in dark paths, through the providence and dispensation of God; why, surely it is not to be objected to a man, for who can love to walk in the dark, but Providence doth often so dispose: and though a man may impute his own folly and blindness to Providence sinfully, yet it must be at my peril. The case may be, that it is the providence of God that doth lead men in darkness; I must needs say, I have had a great deal of experience of Providence, and though it is no rule without or against the word, yet it is a very good expositor of the word in many cases. Truly, the providence of God hath laid aside this title providentially *de facto*, and this not by sudden humour or passion, but it hath been by issue of as great deliberation as ever was in a nation, it hath been the issue of ten or twelve years civil war, wherein much blood hath been shed; I will not dispute the justice of it when it was done, nor need I tell you what my opinion is in the case, were it *de novo* to be done, but if it be at all disputable, and that a man comes and finds that God in his severity hath not only eradicated a whole family, and thrust them out of the land for reasons best known to himself, and hath made the issue and close of that to be the very eradication of a name or title, which *de facto* is, it was not done by me nor by them that tendered me the government that now I act in, it was done by the Long Parliament, that was it, and God hath seemed providential, not only to strike at the family, but at the names; and as I said before, *de facto*, it is blotted out, it is a thing cast out by an act of parliament, it is a thing that hath been kept out to this day, and (as Jude saith in another case) speaking of abominable sins that should be in the latter times, he doth likewise when he comes to exhort the saints, he tells them, they should hate even the garments spotted with the flesh. I beseech you think not that I bring this as an argument to prove any thing, God hath seemed so to deal with the persons and with the family; but he blasted the title, and you know when a man comes (*à parte post*) to reflect, and see this is done and laid in the dust, I can make no conclusion but this: they may have strong impression upon such weak men as I am, and perhaps, (if there be any such) upon weaker men it will be stronger. I will not seek to set up that which Providence hath destroyed and laid in the dust, and I would not build Jericho again, and this is somewhat to me and to my judgment and conscience, that it is true, it is that that hath an awe upon my spirit, and I must confess, as the times are, they are very fickle, very uncertain, nay, (God knows) you had need have a great deal of faith to strengthen you in your work, and all assistance, you had no need to look at settlement, I would rather I were in my grave, than hinder you in any thing that may be for settlement for the nation, for the nation needs, and never needed it more; and therefore, out of the love and honour I bear you, I am for ever bound to do whatever becomes of me, I am ever bound to acknowledge you have dealt most honourably and worthily with me, and lovingly, and had respect for one that deserves nothing Indeed, out of the love and faithfulness I bear you, and out of the sense I have of the difficulty of your works, I would not have you lose any help that may serve you, that may stand in stead to you, but would be a sacrifice that there might be (so long as God shall please to let this parliament sit) a harmony, and

better, and good understanding between all of you, and (whatsoever any man thinks) it equally concerns one man as another to go on to settlement, and where I meet with any that is of another mind, indeed I could almost curse him in my heart; and, therefore, to the end I may deal heartily and freely, I would have you lose nothing that may stand you in stead in this way. I would advise you, that if there be any of a froward and unmannerly, or womanish spirit, I would not that you should lose them, I would not that you should lose any servant or friend that may help in this work, that they should be offended by that, that signifies no more to me than as I told you, that is, I do not think the thing necessary, I do not, I would not that you should lose a friend for it, if I should help you to many and multiply myself into many, I would be to serve you in settlement, and therefore would not that any, especially any of these, that indeed, perhaps, are men that do think themselves engaged to continue to you, and to serve you, should be any ways disobliged from you.

The truth is, I did make that my conclusion to you at the first, when I told you what method I would speak to you in. I may say that I cannot with conveniency to myself, nor good to this service, that I wish so well to, speak out all my arguments in order to safety, and in order in tendency to an effectual carrying on of this work. I say I do not think it fit to use all the thoughts I have in my mind as to that point of safety; but I shall pray to God Almighty that he would direct you to do what is according to his will; and this is that poor account I am able to give of myself in this thing.

16 *April, Lord Chief Justice Glynne.*

The Name and Office essential to Settlement.

First, Because it is known to the law, his duty known in reference to the people, and the people's duty known in reference to him. This cannot be transmitted to another name without much labour, great hazard, if it may be at all. To go by individuals, and reckon up all the duties and powers that a king, by our laws, hath in reference to his trust towards the people, and the duty of the people towards him, is a work of so great labour that it would require months, yea years, if not ages.

Secondly, To apply its relative, *talis qualis*, would introduce these difficulties. First, it would be a new thing, how it would prove is but guest, and its the foundation-stone, its unsafe to put it to a hazard, when you have a safe one. Secondly, those certainties and securities that accompany that title are incident by the ancient laws and customs of the nations; and that which the other office can have are introductive, and given him *de novo* from this parliament, as their ancient inheritance, that can claim but by a new title of purchase.

Thirdly, The people and your Highness loose the best title, both to their liberty and your rights, which is the law, antient custom, and usage, and claim it only but upon the strength of the parliament; but if you take it as a king you have the strength of both.

Fourthly, If you assume any other name, and have the rights given you by parliament, it may seem as if the people had lost their ancient rights, and had need of new ones to be created by this parliament.

Fifthly, The assumption of the title of king is without need of any other authority to protect the people, and bind the people to obey you.

Sixthly, If you should take the name of Protector, or any other new title, whatsoever authority is applied thereto, is but grafting upon a stock that is new, and doubtful whether it will bear the fruits well, and still liable to former objections without doors.

Seventhly, If you take the title of king, the worst affected cannot object against authority, or at all against the parliament, as the donor.

16 *April, Master of the Rolls.*

It is certain that all governments in themselves may be good, for none are *male in se*; but the rule that hath always been observed, that the most necessary and prudent course to govern a nation must be taken from that proportion which is most suitable to the nature and disposition of the people that are governed; if this be the general rule always in the world, we may well draw this argument: both from an absolute necessity, and *ex necessitate consequentis* also. The chief governor, in a settled government, being obliged to do for the good of his people, not only *quoad bonum sed quoad optimum*, then the consideration that will follow properly here will be, whether the name king, which in the judgment of the law implies the office, be not the best government for the people's safety; but *ex necessitate causæ, et necessitate consequentis*, to explain this, it must be premised that when we speak of king, we must take the difference between the person dignified with the name and the name itself; for this must be taken for a sure ground, the word king is a name; as it is a word which the law doth look upon, so it hath its proper basis and foundation upon the law, and is as ancient as the law is. Now the person of the king is a name that hath its dignity and foundation from the word king, as *ex necessitate consequentis*; because in reason a man must be used to exercise that authority which proceeds from that name. These things being very clear by the fundamental grounds of the law, if then we examine the foundation of things according to the rules of the law, it is manifest that the name king, the laws, rights, property, and liberties of the people, and also parliaments themselves, have but one foundation, and have the original prescription and ancient customs; that is, customs time out of mind, so that in judgment of law the three, the king, the law, and the parliament, are the parties of the government of this nation, which, having the basis and foundation from prescription, creates this form of government in this nation, which is not a form in the vulgar acceptation of the word (*form*) but it is the form of government settled in this nation; that is, of the essential part, and hereby the law *forma dat esse*. Then to me it is an impossible thing that any act of parliament, even without a destruction to the essential part of the government, can place that office in another name (be what it will) which naturally wants the foundation and ground of that power and office which that name hath.

First, Because the alteration destroys the foundation, which is prescription, and annexes to it a name that the law of the land hath no acquaintance with.

Secondly, It sets all laws, liberties, and what is dear to us upon a new foundation as to the people; for whatsoever is created by an act, cannot have life and authority but from that act, and shall never look back to its first original constitution; and it takes from the people the rules and grounds which they have known by experience, and sends them to seek them in a power of which no wit of man can suddenly apprehend the bounds and limits, when so many doubts may arise, even in the old foundation, which experience and time hath excellently refined from these grounds. I may safely say, that there never was but one king in England from the first foundation of kingship, and can safely conclude there will never be more; and that there have been many, and more I hope will be, whose persons shall exercise that office: for the law doth positively affirm, the king never dies; and that the reason is, because its original is grounded upon the same foundation, which is so conjoined together that no death can make a partition: and the difference is, the king never dies; but the name and the thing hath a kind, in a vulgar sense, of an immortality, if we consider the continuance of the word and person that is invested with that name by the judgment of them; is not said to die, but to devise, which is to deposite, and to lay up the name and

titleo f the king. Indeed to deposite it in another hand, all which proceeds in judgments of law, *ex necessitate consequentis*, and from the necessary inconveniences and mischiefs that may arise to the people by *interregna*, and by other consequences that would be too long to relate. There is a famous example in 1 Hen. VII.

The common ground is taken by the accession of the office and dignity to the person; but the true ground is the name, and the office is become part of the body of the law, which should punish the offences against which it was committed, which doth prove both the necessities of the name, and the necessary relation there is between the name and the law; and it is a necessary deduction that the name king, is the thing wherein the office and power is placed, and therefore not practicable, by any statute or act of parliament, to divide the power and office from the name, and transfer that power without the name. The word king hath such essential reference to the law, that it never looks to the person to make that the ground of the essence; but if it had been the name, the law was satisfied, and therefore it never examined the right of the person how he became invested with the power, but *de facto* whether he were or no, and if so, whether *de facto* or *de jure*, it hath the same influence upon the people's right, and the same advantages to the chief governor.

The Objections of the Government now, and of the Government under the Keepers of the Liberties, and the Quietness under both of them.

1. Remember the difficulties in making.
2. The grounds why the judges acted, though some refused.
3. That upon debate when inconveniencies were set forth, these grounds another parliament might change, and the like.
4. To the government, the dislike of the people, how some disrelish this now set up.
5. The laws did proceed far when the ordinary process disobeyed; a good army to help us; the ground and reason of the war against the person. For the breach of trust in his departure against his promise in parliament, upon the petition of the speakers, &c.; and was not against the office, but against the breach of trust in that office, by the absence of the person.

There is also another reason why the office cannot be annext to another name, either by act of parliament or otherwise; for in any other name you must suppose the office the king; so that any other name is but a fiction in respect of the right name, and that would be very dangerous, both to the laws and to the property, to lay the basis and foundation upon a fiction, which was a reason that some of the judges forbear to act upon the name of *Custos Libertatis Angliæ*, &c., and the same reason upon any other name. I urged also that this petition and advice was matter of right, not of grace, which was never denied by any prince in this nation; nor can it be, because there is an obligation in all cases to do right, and this obligation is upon the Protector whilst he takes upon him the chief magistracy.

Colonel Jones, 16 *April*.[1]

May it please your Highness, I am unwilling to spend the time in speaking after those two learned and honourable persons that spake last, and therefore shall endea-

[1] "Colonel John Jones, a gentleman of Wales, one of the Long Parliament, was a commissioner in Ireland for governing that nation under the parliament. One of good principles for common justice and freedom, had he kept them, and not fallen into temptation. He helped to change the government, and make those laws of treason against a single person's rule; hath a considerable revenue, and, it is likely, did not lose by his employ-

vour, in what I have to say to those doubts you was pleased to make when this committee had the honour last to attend you, to be as brief as may be. Your Highness was pleased then to say, that though the arguments brought to the maintenance of the title king, in the petition presented to you by the parliament, were weighty, yet in your answering them you must not grant them necessarily conclusions, but take them as having much of conveniency and probability of, towards concluding; for if an expedient may be found, they are not then necessary. And you were pleased to tell us, that though kingship be not a title, but an office interwoven in our laws, yet it is not so *ratione nominis*, but from what it signifies, that being a name of office plainly implying the supreme magistrate; and therefore whatever name it be wherein the supreme magistrate resides, the signification will give to the thing, and not to the name; and seeing this title had a commencement, and also hath been unfixed, why may not a new one now commence, and be now fixed by the legislative authority, and thereby be made to run through the law, as well as the title king? (from whence may be inferred this title is not necessary.) But, may it please your Highness, if it be considered the intention of the parliament in this their humble address to you, (*viz.*) that it is a settlement, it would then be likewise considered, whether a new name will be not found, in this case, to make a new office also; and whether then the novelty thereof will not hazard it, or frustrate that great end of settlement, the antiquity and trial of laws, being that which doth beget the greatest reverence and satisfaction of them in the people; and that the change of the name makes it a new office, will appear both in respect of his authority who bears the office, and in respect of the people's obligation in matter of obedience to that new officer; for, by the ancient law, he cannot claim subjection from them, nor can the people thereby claim protection from him. The strength then of the settlement, and of their rights and liberties, as far as they relate to this new supreme magistracy, will rest upon a new and untried constitution; and this authority upon the same foundation, the wisdom of our ancestors, even in lesser matters when they introduce a new law, made it, for the most part, a probationer only; and I may humbly say, we have now some years been making probationaries of new governments; and therefore the parliament, finding the people not yet settled with any of them, return to that, which, by long experience and custom, hath been found to suit with their minds and rights, the people having not the same satisfaction or acquiescence in any new thing which they have in long-approved laws and customs; a new thing being in itself uncertain, not only whether it will prove good or no, but also in this case, in respect that one main property of the settlement, being a co-ordinate power, depends upon it, and will be subject to be controverted whether one co-ordinate is well put up by another, or may not, by the like power that sets it up, be pulled down again, which cannot but leave men's minds as doubtful of settlement as ever, things uncertain and disputable, naturally carrying unsettlement with them. Time and experience hath grafted this name and office in the minds of the people, and that (as I said already) begets reverence and satisfaction in their minds. Also they were the exorbitances of the office (which, in great measure, this petition provides against) that was complained of, and not the office nor name, which are founded upon the ancient laws; the altering of either alters the constitution, and lays it upon a foundation less certain and easier to be shaken; and therefore to take up the office without the title, will be to take it up with all the objections of scandal, or otherwise it is said to be liable to, and yet to want the support of the ancient laws it carries with it, and the advantage of satisfying and settling the minds of such of the people of these nations, as by the con-

ment. He is governor of the Isle of Anglesey; and lately married the Protector's sister, a widow, by which means he might have become a great man indeed, did not something stick which he cannot well get down."—*A second Narrative, &c.* III. 463.

sideration of novelties, and what in this case attends it, will otherwise rest doubtful and unsettled. These are some of the grounds I observed in the debate of the parliament, to induce them to judge this title not only expedient, but, in respect of settlement, necessary. Your Highness was pleased to object also the dissatisfaction of good men, which you judged in things indifferent were to be considered.

They are so, and it hath been so judged by the parliament, who manifested great tenderness in that kind, and, I hope, ever will: but in this matter found by the parliament not to be indifferent, but necessary for the settlement of these nations, they hope that wherein good people have not already been satisfied, they will endeavour for satisfaction; and it is to be hoped, that when the matter of this petition will be made more public, they will find such care and provision made for good men, and of good things, that will certainly give them satisfaction. I think I may safely say, such a positive provision for their liberties and encouragement hath not been found under any former king, nor any other form of government, to which your Highness hath been pleased yourself to give that testimony; so that it is not kingship alone, as formerly the parliament adviseth your Highness unto, but to the office, with such a provision made for the good interest; and if then your Highness (of whose faithfulness to their interest good people have received such ample testimony) will be pleased to consent to this petition of the parliament, an authority always of no small esteem and reverence with the best of men, I doubt not but when it is done they will chearfully acquiesce, though, while it is doing, they may have scruples; for that of Providence laying aside the title, I think the argument thence will be as cogent against the office itself, and against government by a single person under any title, the acts of parliament mentioned are as expressly against the one as the other; and therefore the exercise of the supreme power by a single person under any title, is as much a contradiction of Providence and these acts of parliament, as the exercise thereof under the title of a king. But certainly the laying aside of a thing *de facto*, which, though indeed it be an act of Providence, yet it cannot be construed that the intendment of that Providence is finally to lay it aside, never to be re-assumed again. The consequences of such a position are many, and may be dangerous, for what by that rule is not to be laid aside.

I remember here an objection made by your Highness in another place, which I had almost forgotten, which was, that we did enjoy our laws, and that the justice was freely administered under several changes and titles, as that of the Keepers of the Liberty, and the title your Highness now bears. To which I humbly answer, that, if so, it may be said, thanks are rather to be given to the persons into whose hands the power fell, than to the constitutions. However, I crave leave to say this, that changes imply not a settlement; and since Providence led us from our old constitution, we have in a few years had four or five changes, and that these changes have not been accompanied with more hazards, it is a matter of praise to the Lord, and of commendation to the powers we have been under. But if one Providence laid aside kingship, another led it in, and calls upon you to take it up. And it is to me a remarkable thing that Providence hath cast it under such constitutions and laws, as if, when we have thrown out the tyrant that oppressed in our spiritual and civil rights, we can, by our ancient laws, graft another in that may be a fit instrument to preserve both, who (as the learned person that spoke last said) may make up as it were but one king. This five hundred years the law not admitting an *inter-regnum*, from whence I infer, that as it was not the end of our war, as appears by six or seven declarations of parliament, one whereof was ordered to be read in all churches; so our Providence led not to lay aside either the name or office, but that family which oppressed us; then all men's lives and liberties depend on this settlement, it is necessary then to lay it in the strongest foundation that may be.

And as for that of safety, it is not for me to speak much to it; but certainly it is to be hoped, that as a parliament advise your highness to things honest and lawful, and by them judged necessary for a good settlement, and therein take care and provide for our rights as men and christians, and your Highness thereunto, all dangers, by God's blessing upon your Highness's wisdom, backed with such an annuity, and an army under the conduct of so many religious and faithful persons, so well principled to the obedience of lawful powers, may be prevented. And therefore I humbly hope God will incline your Highness to grant the petition and advice of the parliament.

16 *April, Sir Richard Onslow.*[1]

The Lord Protector's Objections.

Objection, That the title of king is a name of an office, and any other name which may imply the supreme magistrate hath the same signification, and therefore no necessity of the name.

Answer, Every office ought to have a name adequate to the said office; and no other name than king can be suitable and comprehensive enough to contain in it the common good to all intents and purposes.

It is a rule, that the kings of England cannot alter the laws of England *ratione nominis,* but is bound to govern according to the laws of England; but for any other name there is no obligation lies upon it.

That the very title is necessary was declared in the ninth year of Edw. IV., when the great controversy was betwixt Edw. IV. and Hen. VI., that sometimes one was in possession and then another, that it was necessary the realm should have a king, under whom the laws might be maintained and holden; for every action done by the king in possession was valid and good, for it was his jurisdiction royal. So likewise the first of Hen. VII., so the third, the same opinion was held and declared, that a king *de facto* was necessary, and in all alterations from persons and families. Yet our ancestors always retained the title and the name.

There is a *prius* and a *primum*, another name may in order and degree be first, that is before other men; but it was a king was *primum*, the first name that had its beginning with our laws.

The customs of England are the laws of England, as well as our states laws; the title of king and custom are two twins born together, and have had continuance together; and therefore to say protector, of which we know the date, with custom, (of which no memory can speak,) is a kind of contradiction to the original.

Then there must be a law introductive, because protector is a new name that our law doth not yet know. Now to ingraft a young cien upon an old stock it will never grow; but there must be an eradication of the old root, and a new plantation must be made; and that all the old customs must be put into positive laws, and that will be a thing consisting of much time and great difficulty.

[1] "Sir Richard Onsloe, knight of the old stamp, a gentleman of Surrey, of good parts and a good revenue. He was of the Long Parliament, and with much ado through his policy steered his course between the two rocks of king and parliament, and weathered some sore storms. Was not his man taken in his company by the guard of Southwark, with commissions of array in his pocket from the king, and scurrilous songs against the roundheads? Yet, by his interest, rode it out till Colonel Pride came with his purge, then suffered loss, and came no more in play till about Worcester fight, when, by the help of some friends in parliament, he was impowered to raise, and lead as colonel, a regiment of Surreymen against the Scots and their king; but came too late to fight, it being over. Being popular in Surrey, he was of the latter parliament; is fully for kingship, and was never otherwise, and stickled much among the seventy kinglings to that end; and seeing he cannot have young Charles, old Oliver will serve his turn, so he have one."—*A second Narrative, &c.* III. 464.

The title of king is so incorporated and in conjunction with our customs, which do very much concern the people of England to be upheld, and then there is a rule, *Quæque res in conjunctione pro bono conjunctionis*, that ought to be done, which is for the good of the conjunction and benefit thereof; and if it be for the advantage of the single person and the people, it brings me to mind of another rule my old master Tully taught me, *Communis utilitatis derelictio contra naturam est*, it is not natural to decline that which is for a common benefit and utility.

And therefore I shall say but this as to the title, that as the patriarch Jacob joined together in his blessing upon Judah, the law-giver and the scepter, so the parliament of the three nations desires to preserve the title king in and upon the law.

2. *Objection*, Another argument your Highness was pleased to draw from Providence, that had brought you to this place through much darkness, and had seemed to lay this title aside of king.

Answer, It becomes all men to acknowledge the acting of the providence and power of God for bringing to pass whatsoever he hath determined in the world; and it is the mighty and wise hand of Providence which triumphs over nations, and triumphs and treads down all oppositions; yet your Highness observes, it is not a rule to walk by without the word, the reason, the causes are hidden in the secret counsel of God's will; you may see in the Revelations, the book is sealed up with seven seals; we may read what is past, because it is written on the outside of the book; but what is to come we cannot read, and we ought not to limit Providence, nor can we bound it with *a no further*.

3. *Objection*, This state hath by Providence received several changes to great ones from the former constitution, that of the keepers of the liberties of England and this present government, under the title of protector, and the first seemed to be the result of seven years war against the title and the family.

Answer, It must be confessed, it proved the event of seven years of the war, but the reasons of the war did not lead to it, for the war was for king and parliament, for the office; but against the person, against the exorbitancy and irregularities in his government; but it was Providence that took away at that time both the office and the family.

It was also Providence that altered from that of a republick to this of a protector; that act being as much against a protector as a king, for it was against a single person.

And may not, by the same series of Providence, this parliament as well set up kingly government as that parliament took it away, having also the same power they had?

4. *Objection*, Another ground why your Highness would not accept of the title was, the dissatisfaction many persons, who had been instrumental in carrying on the work, have against that title.

Answer, In every change of government there was and still will be persons unsatisfied, because men are of mixt interests and differing in judgment, upon the change to a republick. Those that conceived the monarchical government best were unsatisfied: But all ought to submit and be concluded by the judgment of a parliament.

Your Highness was pleased to say that neither yourself nor those that tendered to you the instrument were authors in the first change, but it was the Long Parliament, so that I may conclude, they were not engaged for that government by king.

It hath been indeed the honour of the soldiery that in all these changes they have still followed Providence, and have acquiesced, acting and living in practical conformity, but I wish they would be satisfied, for their love sake to us, and their labours for us. High should his reward be in heaven, and happy his remembrance on earth, that would be the means of such an accord; but to satisfy all men, so divided as we are, would be no less than a wonder. I shall speak in a parable in the thirty-seventh

chapter of Ezekiel, ver. 16. "The Lord said to the prophet, 'Take two sticks, write upon one stick for Judah and the children of Israel companions, and take the other stick and write upon it for Joseph the stick of Ephraim, for all the house of Israel his companions, and join these two sticks in one stick, and they shall become one in thy hand; these are the two nations of Israel and Judah, two distant and different names, but they shall come under one king, and David shall be their king.'" Thus they were united.

5. *Objection*, Justice hath been as well administered, as free from solicitations under these changes as before.

Answer, You were pleased to say you undertook that charge to preserve from confusion, which indeed is the worst of evil, and the same reason might prevail with judges, and other magistrates to execute justice, and give to men their rights, which is so desirable to all men, and of absolute necessity.

Justice may be compared to the water in the spring, if kept from his natural channel will break his way through the bowels of the earth: Nature sometimes may suffer violence, there is a peace in a cessation to war, and there is a peace in the regard of the distraction may be termed; but an intermitting peace, for your Highness is pleased to acknowledge that the people call for a subsistery and cry aloud for settlement, from which, under favour, I may infer, that as yet there is no settlement so well settled as to be accounted perfect and good.

Your Highness is pleased to declare you had rather take a title from this parliament, than any title from any other place or without it.

The parliament of England is the womb of the commonwealth, and in that womb there hath been a conception and shape, and proportion, and form, and life, and groweth as far as the navel could nourish; there hath been also a delivery and a name given, there has been *conceptu conceptus partus et opus*, and it hath been a great work to bring us to this delivery; it is therefore the humble advice of the parliament that your Highness would be pleased to make it speak the English tongue.

April the 16th.

Lord Commissioner Fiennes.

Your Highness the other day laid down as a ground of your ensuing discourse this position, that there was no necessity of the name and title of king, upon which foundation your Highness seemed to build the arguments and reasons of your Highness's dissatisfaction as to that name and title, and that in such sort as the matter is now circumstantiated and stated by your Highness's own self, that there is a necessity either in the affirmative or negative, if it be not necessary that the name be assumed, it is of necessity to be declined; and if no necessity to decline it, then there is a necessity to assume it: For although the nature of the thing be itself such as possibly may admit a latitude of argument upon the point of expediency and conveniency, and that we are not shut up under an absolute necessity either the one way or the other, yet the parliament having given their judgment upon it, and their advice to your Highness in it; your Highness seemeth to admit that there lieth a kind of necessity upon you to assume it: If there be not a necessity to wave it, for you will not without necessity decline the advice of the parliament, having said that you should rather chuse any name which they should fix, than any name whatsoever without. Then it holdeth out thus much, that you will not put expediency and conveniency, but only necessity in ballance with their judgment, who are the proper judges of things in that nature, and what is most expedient and convenient therein for the three nations, which they

represent, and thought a name might otherwise be inconvenient, yet accompanied with judgment of the parliament, it would become more acceptable to your Highness than any other name without, as your Highness hath said and admitted, and besides the grounds of dissatisfaction held forth by your Highness, relating to conscience, they must be such as are grounded upon a necessity in the negative, though the reasons alledged by the committee should not of themselves conclude, but only in expedience in the affirmative; yet they are so far from concluding necessity in the negative, that they do it by accident in the affirmative, because there is not only no necessity of the negative, but an expediency in the affirmative; which notwithstanding is more than lay upon the committee to make out, it being sufficient, as this case is, to shew that there is not a necessity to decline it, is to conclude a kind of necessity to take it, and whether or no if the position laid down by your Highness were admitted, the reasons given by your Highness, do upon supposition conclude a necessity of declining this name, is the question in the second place: When the first position hath been considered how far it must or need not to be admitted, there is a double necessity in a natural and a moral necessity: A paternal necessity falleth not under consideration rules, if it be one respect, because there is a kind of impossibility, at once to enumerate all particular cases and circumstances, wherein the chief magistrate shall or shall not have power or right, which many hundred of years hath done and fitted the laws in all particulars to the name and title of king, but to the name of protector, or any new name, either all cases and circumstances must by particular enumeration be applied, which would be the work of an age (as it hath been of many ages in that name of a king) or it must be left at least in what is not enumerated boundless and lawless, which that it should not be: There is a moral, that is to say, a politic necessity, or else, to suit a particular enumeration there must be a general clause that in all things not particularly specified, they shall be defined by the laws and rights belonging to the name king, and then the question will be merely nominal, and consequently not be put in ballance with the judgment of the parliament, for that a necessity in the negative cannot arise out of a meer nominal difference of the thing, and the definition thereof being identically the very same, and there being no difference but only that of a new name, which in the judgment of diverse wise men, may draw after it such a consequence, as the putting of old wine into a new bottle, which may hazard the loss of the thing, and of the laws and liberties of the nation, which are desired to be preserved thereby: As to moral necessity, it is either so *absoluta necessitate*, or *necessitate præcepti*, or *necessitate medii*; for the first necessity there are but four things that are necessary in that sense, as God is necessarily good, true, &c. and as to that necessity which is *virtute precepti*, it is so either primarily or secondarily *in terrentu actus humani*, and of the latter sort is the matter in question, of at all, necessarily *necessitate precepti*; for though magistracy be an ordinance of God primarily, yet particular forms of magistracy and government, and much more the circumstances of those forms, as names, titles, and the like, are first ordinances of men before they are ordinances of God; first man sets his stamp upon them, and then God sets also impress upon them, and therefore though they be but ordinances of men, yet the apostle saith, we are to submit unto them for the Lord's sake, whether to the king as supream, or to governors as those that are sent by him, and what Peter calls ordinances of men, Paul calls ordinances of God, and yet they are to be obeyed not only for fear, but also for conscience sake; so that in these forms of government men may do as they will, as in other contracts wherein it is free for them to contract or not to contract, or to make their covenants this way or another; but when they have made them, they must keep them, for then God's seal is upon them: Now as to the matter in question, it is clear, that the unquestionable stamp of human authority, and the ordinance of man in these nations, hath accompanied this

office under this name for many hundred years together; and if it was waved and laid aside, as of late years, it is now set up again by as good an authority, and a fuller representative of the three nations; and though it be only by petition to your Highness, yet it is in some sort a petition of right; for the people of these nations have an interest in their government and laws (whereof this was amongst fundamentals) as well as in their liberties and lands; and although particular persons may have forfeited their interest in the government, yet I do not know that the nations have forfeited their interest therein; but if this point shall seem to be driven too far, yet it is clear, that if this office under this name and title be most known, and most suitable to the laws of these nations, most agreeable to the desires and dispositions of the people, and most likely to maintain quiet and peace in the nations, with justice and liberty, which are the great ends of government, and of all forms and names therein, as in the judgment of the parliament it is: Then as it is the duty of the parliament to advise it, so doth thereby lay an obligation upon your Highness to accept it *necessitate medii*, as a necessary medium to attain those ends: And whereas your Highness is pleased to say this medium is not necessary because the ends may be attained by another medium, as appeareth in these two names and titles, *custodes libertatis Angliæ* and protector: besides the experience in the one, that was but of short continuance, and of the other, that it hath and doth still stand but in a shaking and uncertain condition, and of both that they have attained the end but imperfectly, and through the help of a great deal of force; and though it cannot be denied but that the end may in some degree be obtained by such other mediums, which may serve the turn in case of necessity, and when no better can be had; yet where such a necessity is in the case, there doth spring out of a kind of moral, or at least a politic end of the contrary, and of embracing that which is the best medium; for in case of necessity, there might be a government without any laws, and that *arbitrium boni juris* should serve instead of all laws; and yet where laws can be had, none will say that laws are not necessary: When a man hath a better lamb in his flock, a worse will not serve; but in that case there is a moral necessity, that the best be brought for a sacrifice, when the parliament (and they suppose the like reason extends also to your Highness) are perswaded in their judgments, that this is the best medium to preserve the liberties and the peace of the nations; and yet no necessity appearing unto them so to do, should make choice of a weaker prop, and that thereupon should ensue inconvenience, and that the band of peace being broken, blood and confusion should return upon the nation, it must needs also return upon their thoughts, that they had been wanting in their duty in not providing the best remedy, which possibly might have prevented the mischief which leadeth to the consideration of the second question in this matter, whether admitting your Highness's position, that there is not a necessity of this name king; the reason held forth by your Highness makes out such a necessity, as that you cannot take upon you that name though advised thereto by the parliament, as the best and most reducing to the ends of government, withal granting not absolutely necessary, if there fall not out to be necessity in the case, to the contrary. your Highness was pleased in the first place to mention the dissatisfaction; as to this particular of many godly men, and such as have grown up all along with you in the carrying on this great cause, as soldiers, which indeed must needs be a very great and tender consideration to your Highness, as it is also to all of us, who reap the fruit of their prayers, and of their hazards, and great and worthy service, and it would be a great happiness, if it might please God, that great and good things were carried on with unanimity and harmony amongst good men: but the felicity hath never yet been granted unto us, but that great matters and changes have been accompanied with great difficulties, with great difference of judgments, even amongst the best men, as our late changes sufficiently testify. For your Highness

knows well when that change was made whereby this name and office was laid aside, how many godly men and your old friends were dissatisfied therewith, and yet those that had then the power did not think that they should therefore forbear to do what then was judged for the good of the nation. There was the like dissatisfaction on the other side of many godly men, when your Highness took upon you the government under the name of protector, and yet it was not held an unjust obstacle to what was then thought good for the nation. There is a certain latitude wherein there may be had a respect to friends, when the public good of the whole nation is in question, other considerations may not take place, and it is not love to satisfy mens desires to their own hurt and the hurt of the public; so it cannot be thought, but that godly and sober men, when they see this name stamped first with the ordinance of man, and after with God's ordinance, (for so it will then be) they will submit thereunto for the Lord's sake, and satisfy their minds that they ought so to do; for that other reason alledged by your Highness, that this name hath been blasted and taken away by the parliament, it is clear, that the thing was as much blasted as the name and the government by one person, under what name soever, as much and more blasted than this name; but in truth, neither name nor thing hath been at all blasted by God, otherwise than he blasted all things and names of this nature. It may be as truly said, that he hath blasted parliaments, for they have also undergone and felt the like blasts; but God hath so declared his will concerning all particular forms of government, that they are wholly at the pleasure and disposition of men to be continued and altered and changed according to the exigency of affairs, and public good of the people and nations for which they are created by men; for the scripture calleth them *humanæ creationis*. Therefore as men blast them, so God blasteth them; and when men set them up again, God honoureth them again, and commands they should be honoured. One parliament thought the perfect state of affairs required the taking away of this name and office; and this parliament judgeth the present state of affairs requireth the restoring it to the nations again. As to that point of safety, which your Highness touched upon, we may best answer it by drawing a curtain before it, as your Highness has given us an example: There are dissatisfactions on the one side as well as on the other, neither is the consideration of danger only on the one side; and some things may be more convenient for your Highness to conceive, than for us to speak; only I shall remember your Highness what the wise man saith, "He that observeth the wind shall never sow, and he that regardeth the clouds shall never reap." The husbandman in the way of his calling must rule his actions by the ordinance and revealed will of God, without attending unto the uncertain events which may arise through the indisposition of the air, which is in God's hands and disposition; so every man in the way of his calling must attend to what is the revealed will of God, to guide his resolutions and actions thereby, and not by the various minds of men, which are in the hands of God: And the wise-man also saith, "he that walketh uprightly walketh surely," he walketh uprightly that walketh according to God's revealed will. It is also a great note of integrity to speak as a man thinketh, to do as he speaketh, and to suit names to things; and, as your parliament hath thought to suit with this thing, so have they offered to your Highness with much integrity, and without any other respect, saving to your good and liberty of the nations.

Lord Broghill. April 16.

Your Highness, the last time this committee had the honour to wait on you, seemed to be of opinion that it was not necessary that you should assume the title of King to exercise legally the office and duty of supreme magistracy of these three nations; because, that the title of Protector is, by the authority of parliament, made the title of

chief magistrate, would do as well and answer all ends of government as fully, as that which now the parliament does desire and advise your Highness to take upon you: but to effect this, either all the powers and limitations of a Protector must be more particularly enumerated, or he must, under the name, have all the authorities with a king, as a king has by the law. Of the first of these then, (as those learned gentlemen that have spoken before have fully proved) whatsoever is not particularly specified, the Protector is left to act arbitrarily, or a parliament must be called to supply every new discovered defect, his power being derived only from that authority that now does, or hereafter shall constitute them, which will prove dangerous and inconvenient both to himself and the people; and to set down all authorities and abundances which are requisite, will be a work of so much time and difficulty, if that in the nation only it seems impracticable, in the acting it will be much more found so; if the second, then it will evidently appear, if the difficulty is only about a name, and it would be a sad thing indeed that any disagreement should be between your Highness and the parliament, especially when the thing differed in, as the settling of our foundation, and the thing differed upon, is only a name. I hope that unhappiness will be so well foreseen, as never to run into.

Your Highness was pleased to take notice, that if the title of Protector were settled by parliament, hardly any thing could be objected against it; but that it is a title not so long known to these nations, as that of a King, which is a grave and weighty objection, since in constituting of governments, the ablest and most deserving judges are uncapable to see these disadvantages and inconveniencies which time and experience do render evident, which may be a reason, if not the chief one, why our ancestors would never alter kingly government, though they had often the power to do it, and were provoked thereunto by exorbitance and evil government of their princes; chusing rather to bound that office proportionably to the evils they have deserved in it, than to establish a new model of their own, in erecting of which they could not have in some ages, the experience they had of that; and to cast off an office that has been some hundred of years a pruning and fitting for the good of the people, to establish one that has been but newly known, were to think ourselves wiser in one day than our forefathers have been ever since the first erecting of kingship.

It has been an unquestionable principle, that the magistrate is established for the laws, and not the laws for the magistrate; if, therefore, the title of Protector should be the title of the supreme magistrate, we should fit the laws to him, not him to the laws; which would be, by our practice, to contradict our professions, and possibly wound the people's rights: but in this point, there has been so much said, and that so learnedly by those worthy persons who have spoken before, that to prove the necessity of your Highness assuming the title of King, and should only add a mentioning of those many reasons that the parliament of three nations think it necessary you should do it; which is evident by their inserting it amongst these three things, which they esteem fundamental as to the settlement. Yea, they have placed at the head of those fundamentals, and laid so great stresses on it, that in their humble petition and advice, they declare, that if it be not accepted of, the whole shall be esteemed null and void, so that the highest necessity imposed by a parliament will have the best acceptance. Your Highness was pleased to mention, that we had recent experiments what the supreme magistracy of the nation might be well carried in to all effects and purposes under another name and title than that of King, viz. under the name of *Keepers of the Liberty of England*, and under the name of *Protector*; but I shall humbly beseech your Highness to consider, that because that was not grounded upon the old known laws, it was of very short duration; and the second for the same reason, the parliament is now petitioning and advising your Highness to alter, so what is brought as arguments to prove what your Highness mentions, possibly may rather evince the contrary: besides, sir, it is confession on all hands that these two changes sprung from necessity; therefore,

were not, neither ought to be of longer continuance than that necessity which caused them, and this is the great and real difference between constitutions that are established meerly because necessary, and those that are established meerly because good. For what is only of necessity, is but temporary, as no effect lasts longer than it's cause; but what is good in it's own nature, is always good, and if by intervening accidents it be a while clouded, yet at length it shines and overcometh, and all wise men do desire to revert unto it. To prove that the first of these changes, the keepers of the liberty of England, was only an act of necessity and not of choice, I need but mind your Highness of what the masters of the rolls then spake of; the parliament did even now evert, that after the absolution of kingship, the parliament were necessitated to advise with a civilian of another nation, what the Hollander had done, what they did, they were at a loss what to do, the providence of God hath so altered the temper of officers between that time and this present, that the change appeared best, because necessary: but the parliament esteems the change now desired necessary, because best; nor can we possibly better express our thankfulness for the opportunity which now God hath put into our hands, than to employment, to make the best and lastingest settlement; all things are best which are found best upon trial, but all the changes we have been under of late were upon belief, not experiment, and having had an essay of all, the parliament have found that above all, kingship is best; so that by the best judges, and by the best way of judging, that form of government now presented to your Highness, hath the preceding in the people's opinion, and, therefore, is hoped you will have it in yours.

It may possibly be fit for your Highness's observation, that the best breach which happened amongst those worthy persons, which instrumentally carried on our common cause, arise from the taking away the title and office of king, so often declared for and engaged to be maintained by the parliament, till then we went hand in hand, and took sweet council together; and if the abolishing thereof caused so sad a breach, probably the restoration of it may make it up again.

Your Highness was pleased to say, you assumed the office you now bear with no better hope than to prevent mischief, questionless we may expect better fruits from the supreme magistracy; and if your Highness, who is every way so worthy of that office, had no better hopes under the title Protector, we may justly subscribe it not unto yourself, but unto the constitution of government you acted under, and therefore your Highness do assume the supreme magistracy according to the laws: We shall both hope and believe that you will not only prevent ill, but do much good, the best governor being grafted upon the best government. Your Highness expressed some doubts, that the providence of God hath blasted the king's office in the dust, and that by an act of parliament was laid aside; but I humbly hope your Highness will pardon me if I cannot have the like apprehension, I cannot believe if that office were blasted by the hand of God, that the parliament would advise and petition you to take it up. Besides, sir, the very act which first cast out the kingly office, did also cast out the supreme magistracy in any single person; yea, by way of election, or otherwise: therefore, I beg your pardon, if I cannot think that act of parliament can be interpreted as a providential blasting of that office, which your Highness thought necessary to accept of, and by virtue of which we have for some years past enjoyed quiet and protection. So that if kingship be blasted, then supreme magistracy in a single person is as much, being both equally declared against at the same time, and in the same act of parliament; and that since your Highness by your actings have evinced you did not believe the supreme magistracy in a single person was blasted by Providence, you will permit us to believe that kingship is no more blasted than that the same authority and the same act having blemished (as far as it could) both alike; but your Highness is pleased to say kingship is cast out *de facto*. If the weight of the argument do rest thereon, your Highness by accepting the petition and advice of the parliament, will make your argument as strong for kingship as ever it was against

it, and it is hoped your Highness will not doubt but what one supreme authority did suppress, another may erect; that seemed necessary then in the judgment of them only, then they knew not what to do when they had erected kings, and we shall be in the like perplexity if now you accept not of this; what the Long Parliament did after so long a war, must be considered rather as result of Providence, than the casting out the other. The estate of parliament must be considered under that notion also, and yet I think there are few that esteem it not as fit to refer it again under due qualifications, as then it was esteemed fit not to allow of it under any; if also, your Highness's arguments were carried on as far as they might be, I apprehend it might also bring it in question, that the parliaments were blasted by Providence; for whoever allows not the dissolving of the Long Parliament to be under that notion, will hardly find a good reason for its dissolution; but it may be answered, that it may not be cast down in reference to some that acted in it, who were suspected to have a design of perpetuating themselves in that authority, which would have turned what should have been our physick into our food. To which I humbly answer, had that been so, the people might have had new writs sent unto them for the election of their representatives, who might have carried on the publick affairs of the nation by a new parliament; but it seems those times would not bear it, and therefore a convention of select persons were called, unchosen by the people, to whom all power was devolved, and who had even a right to have perpetuated themselves by calling in to themselves from time to time whom they thought fit: so that parliaments were not for that turn only laid aside, but even by that constitution which did it, were perpetually excluded. By which it is evident, that if kings were *de facto* blasted, parliaments were the like; yea, much more, for in the act for abolishing kingship, it was treason in those only who offered to restore it, but by consent in parliament; but in that assembly there was no such provision for parliaments ever, as hath been said. By their constitution parliaments were excluded, and to evidence how much stress there lies barely upon a legal name, that assembly, to give greater authority to their actings, stiled themselves a parliament, as the only name the parliament took notice of, as the supreme authority of the nation, which possibly may invite your Highness to believe that godly men and wise men think it essential to have titles consonant to our laws; and, therefore, that your Highness in the exercise of the supreme magistracy will be the rather invited to assume the title King, that being consonant, and that only being consonant to the law, I think all sober men agree of that government; but for the particular form thereof, it is left to the wisdom of those which the people chuse to represent them, to set upon such a form as may be most fitted to their genius, and likeliest to prove their good and quiet. If any can prove that kingship, by the word of God, is unlawful, or that people have not power to give the supreme magistrate what name they think best, I should be then silent; but since that power is unquestionable in the representative of the people, and that they have desired your Highness to govern them by the title of King, and since also nothing can be objected against it, and both reason and custom pleads for it, we earnestly hope you will not think fit to deny the people that which is but their right, and I believe it was not yet denied by any supreme magistrate to any people: to which may be added, that if the kingship has been cast out by many providences, your Highness's accepting it will shew, that it is restored at least by as many more as have happened in reference thereunto, from its absolution to its restitution.

Your Highness did further object, that some good men would be offended at your acceptance of that title. I confess it is very considerable, and I think every judicial person of the house would be very cautious to give men under that character a just offence; but your Highness will be pleased to permit me to mind you of the character you gave of good men in your last speech; they are such you said as give obedience to gospel-ordinances, which requires obedience to authorities, not for fear, but for con-

science sake, that you reckon nothing of godliness without the circle, and that any principle which opposeth thus, was diabolical, and sprung from the depth of Satan's wickedness. You were pleased further to say, that though some good men scrupled at that name the parliament thought fit to assume, yet their doing so was no part of their goodness: by all which it will be evident, that your acceptance thereof cannot offend good men, but by their esteeming their obedience to a gospel ordinance an offence, which I hope no good men will or can do. I shall also humbly beseech your Highness to consider, that if on the one side the acceptance of the title may offend some good men, so on the other side, the declining it will give offence to the parliament, where all good men are legally and at once only represented. The case of David, when his child was sick, may possibly parallel the case of such good men as are herein unsatisfied; while as the child was sick, he was very earnest with the Lord for the restoring of it to health, but God was not pleased so to do, and the child died; his servants being of another principle than himself, thus reasoned: If his trouble and grief were so great, while yet the child was not dead, what will it be now it is dead? but David reasoned thus, while there was hope, I wrestled with God; but since his will is declared, I chearfully submit to it. I hope, as scrupulous good men's cases in the particular of kingship, is a parable in the history, so it will likewise prove in the event. Your Highness was further pleased to mention some considerations in reference to safety, to which I humbly answer, the things that are offered to you are just in themselves, in reference to civils and spirituals, and so acknowledged by you: that authority that tenders them is the supreme legal authority of three great nations. You have a faithful and a good army, and we have you at the head of them; what shall we then fear? To which I shall only add, that safety hath been often in danger by the kings and parliaments disagreeing, but this is the first time (if it be in danger) that ever it was by their agreement; to which I may further add, that whatever evil may arise from your agreement with your parliament, it will befall us in the way of our duty, which is an inward comfort to ballance any outward evil; but if any evil happens by your not closing with your parliament, we shall undergo the outward harm, and be denied the inward support. Your Highness was pleased to say, you had rather have any name that is not given by them. Permit me, therefore, now to say, that to all other arguments we have one irrefutable, and that is your own engagement, for the parliament doth desire and advise you to accept the name of King; hitherto we have pleaded but upon the account of your engagement, and it is humbly hoped your Highness, who hath so exactly observed your word to your worst enemies, will not break it unto your best friends, the parliament.

Lord Whitlock. 16 *April.*

Sir, I have very little to trouble your Highness with, so much hath been already spoken, and so well, that it will be hard for me or any other to undertake to add to it; only the duty of my employment, and something due to your Highness, occasions me to speak a few words to acknowledge with very humble thanks, the honour and right which you have done this committee, by the clear and free discourses and conferences which they have had with your Highness, and for your frequent expressions and testimonies of affection and respect to the parliament, whose sense in this I may presume to speak, that never any persons met their supreme magistrate with more love, duty, and honour, than the parliament have met your Highness with in their present addresses; which argument of love deserves the esteem and force, which I doubt not but your Highness will put upon it. I am fearful to be too tedious at any time, especially at so late an hour, and therefore shall speak but short to some things which I remember not to have been mentioned. Your Highness was pleased at the last meeting to say, that the original institution of the title King was by common consent, and that the

same common consent might institute any other title, and make it as effectual as that of king; this must be acknowledged, but withal, you may be pleased to observe, that the title of King, is not only by an original common consent, but that consent also proved and confirmed, and the law fitted thereunto, and that fitted to the laws, by the experience and industry of many ages, and many hundred of years together; whereas, any other title will be only by present common consent, without that experience and approbation: for that experience which your Highness mentioned to have been of other titles, and the due administration of justice under them, this experience is far short of the other, and for the course of justice, we have cause to thank that care which placed so good judges and officers over us; yet, give me leave to say, that in private causes between party and party, and in publick matters in nominal causes, it was not easy to find justice to be done by some jurors. And many questions have risen upon the occasion of those new titles, concerning that tender point of good men's satisfaction; I think it requires a very great regard from us, and I doubt not but those good people will be fully satisfied, if they consider the covenants, promises, and precepts, which in the scriptures are annexed to the name of King; and, although some have alledged, that they belong to any chief magistrate, as well as to king; yet, no man did ever read the original word translated otherwise than king, neither do I find the present title once mentioned in the holy text: if the present authority be a lawful authority, which I hope none of us will deny, surely those good men, who are so well principled in godliness, will not forget that precept of submission to authority, and to be satisfied with that which lawful authority shall ordain. Their rights and liberties are the same with ours, and the parliament cannot advise any thing for the preservation of the people's rights, but these good men are included, which I hope will be no dissatisfaction to them. In all the changes which we have seen, there hath been a dissatisfaction to some, yet still the blessing of God hath gone along through all these changes, with those who carried on his interest, and the cause being the same, the same mercies have been continued, and I doubt not but if the intended change, or rather restitution be made, as I hope it will, I doubt not but the same God will continue his blessings to that good old cause, wherein we are engaged, and that good men receive satisfaction by it. Your Highness hath been told, that the title of King is upon the foundation of law, and that a new title must have a constitution to make the laws relate unto it, and that unto the laws; I shall only add this, that a title by relation is not so certain and safe as a title upon the old foundation of the law; and that a title upon a present single constitution, as any new title must be, cannot be so firm as a title both upon the present constitution, and upon the old foundation of the law likewise, which the title of King will be. If any inconvenience should ensue upon your acceptance of this title which the parliament adviseth, your Highness's satisfaction will be, that they did advise it.

On the contrary part, if inconvenience should arise upon your Highness's refusal of this title, which the parliament hath advised, your burden will be the greater; and therefore, whatsoever may fall out will be better answered by your Highness complying with your parliament, than otherwise. This question is not altogether new; some instances have been given of the like, (to which I shall add two or three) the titles of the Kings of England, in the realm of Ireland, was Lord of Ireland; and the parliament in the thirty-third year of Henry VIII. reciting that inconveniences did arise there by reason of that title, did enact, that Henry VIII. should assume the stile and title of King of Ireland, which in the judgement of this parliament was preferred before the other. In the State of Rome, new titles proved fatal to their liberties.

Their case was not much unlike ours, they were wearied with a civil war, and coming to a settlement, *Cuncta discordiis civilibus fessa nomine principis, sub imperium accepit*, some would not admit the title *Rex* to be used, but were contented to give the titles of *Cæsar, perpetuus Dictator, Princeps, Senator, Imperator. Non sum Rex sed*

Cæsar, came at last to this, *Voluntas Cæsaris pro lege habeatur*. The northern people were more happy amongst themselves; a private gentleman of a noble family took up arms with his countrymen against a tyrant, and by the blessing of God rescued their native liberties and rights of their country from the oppression of that tyrant. This gentleman had the title of Marshal given unto him, which continued for some years. Afterwards their parliament, judging it best to resume the old title, elected this gentleman to be their king; and with him was brought in the liberty of protestant religion, and the establishment of the civil rights of that people, which have continued in a prosperous condition ever since unto this day. Sir, I shall make no other application but in my prayers to God, to direct your Highness and the parliament (as I hope he will) to do that which will be more for his honour and the good of his people.

The Lord Protector's Speech, April 20, 1657.

I have, as well as I could, considered the arguments used by you the other day, to inforce the conclusion that refers to the name and title that was the subject matter of the debates and conferences that have been between us; I shall not now spend your time, nor my own much in repeating those arguments, and in giving answers to them, although, (indeed) I think they are but the same that they were formerly, only there were some additional inforcements of those arguments by new instances; I think truly after the rate of debate I may spend your time, which I know is very precious, and unless I were a satisfied person, the time would spin out and be very unprofitable spent, so it would; I only must say a word or two to that that I think was new. What comes from the parliament in the exercise of the legislative power, which this is, I understand it to be an exercise of the legislative power, and the laws were always formerly past this way, and that of bills was of a newer date; I understand that, I say, but it is said that was, is done by the parliament now, and simply hangs upon the legislative, seems to be a thing that is *ex dono*, not *de jure*, not a thing that is of so good weight and so strong, as what refers from them to the law that is already in being. I confess there is some argument in that that is there, but if the strength will be as good without it, though it comes as a gift from you, I mean as a thing that you provide for them, or else it will never come at them, so in a sense it comes from you, it is that that they otherwise come by; therefore in a sense it is *ex dono*, for that helps a man to what he cannot otherwise come by, he doth an act that is very near a gift, and you helping them to it, it is in a kind a gift to them, otherwise, they could not have it; but if you do it simply by your legislative power, the question is not, what makes this more firm, whether the manner of the settling of it, or the manner of your doing of it, it is always as great a labour; but yet the question lies in the acception of them, who are concerned to yield obedience and accept this, and therefore if a thing that hath for its root and foundation, but your legislative in an act of yours, if I may put a *but* to it, I do not do so, for I say it is as good a foundation as that other is, and if it be as well accepted, and that the other be less then truly it is, I shall think the better, and then all that I say is founded upon the law: I say all those arguments that are founded in the law are for it, because it hath been said it doth agree with the law, the law knows the office, the law knows the people knows it, and the people are likelier to receive satisfaction that way. Those have been arguments that have been already, and truly I know nothing that I have to add to them, and therefore I say also those arguments may stand as we found them and left them already; only this I think truly, as it hath been said to me, I am a person that have done that that never any that were actually Kings of England refused: the advice of the parliament, I confess that runs to all, and that may be accounted a very great fault in me, and may arise up in judgment against me another time, if my case be not different from any man's that was in the chief command, and government of these nations that ever was before, and truly I think it is they that have been in and

owned to be in the right of the law, as inheritors coming to it by birthright, or otherwise by the authority of parliament, who yet have had some previous pretence of title or claim to it; I think (under favour) I deserve less blame than another doth, if I cannot so well comply with the title, with the desires of the parliament in it, as others do, for they that are in would take it for an injury to be out of it; truly, these arguments are very strong to them, why they should not refuse that, that is tendered to them by the parliament: but I have dealt plainly with you, and I have not complimented with you, I have not desired, I have no title to the government of these nations, but what was taken up in a case of necessity and temporary to supply the present emergency, without which we must needs, I say we had been all after the rate of the printed book, and after the rate of those men that have been taken going into arms, if it had not been taken; it was visible to me as the day, if I had not undertaken it, and so it being put upon me, I being then general, as I was general by act of parliament, being upon me to take power in my hand, after the assembly of men that was called together had been dissolved. Really the thing would have issued itself in this book, for as I am informed the book knows an author; it was a leading principal person in that assembly, when, now I say, I speak in the plainness and simplicity of my heart, as before Almighty God, I did out of necessity undertake that, that no man, I think, would have undertaken but myself; it hath pleased God that I have been instrumental in keeping the peace of the nation to this day, and to keep it under a title that some say signifies but a keeping it to another's use, to a better use, that may improve it to a better use, and this I may say, I have not desired the continuance of my power or place, either under one title or other, that have I not, I say it, if the wisdom of the parliament could find where to place things so as they might save this nation and the interests of it; the interest of the people of God in the first place, of those godly honest men, for such a character I reckon them by, and live in the fear of God, and desire to hold forth the excellency and Christian course in their life and conversation, I reckon that proceeds from faith, and looking to the duties towards Christians, and to the humanity to men as men, and to such liberties and interests as the people of this nation are of, and look upon that as a standing truth of the gospel, and who lives up to that, according to that, is a godly man in my apprehension, and therefore, I say, if the wisdom of this parliament, I speak not this vainly nor like a fool, but as to God, and if the wisdom of this parliament should have found a way to settle the interests of this nation upon the foundations of justice, and truth, and liberty, to the people of God and concernments of men, as Englishmen, I would have lain at their feet, or any body's feet else, that this might have run in such a current; and, therefore, I say, I have no pretensions to things for myself, or to ask this or that, or to avoid this or that. I know the censures of the world may quickly pass upon me, but I thank God I know not where to lay the weight that is laid upon me, I mean the weight of reproach, and contempt, and scorn, that hath been cast upon me; I have not offered you any name in competition with kingship. I know the evil spirits of men may easily obtrude upon a man, that he would have a name that the law knows not, and that is boundless, and is that under which a man exercises more arbitrariness; but I know there is nothing in that argument, and if it were in your thoughts to do any of that kind, I think whatsoever it was, it would bound it and limit it sufficiently: I wish it were come to that, that no favour should be shewed to me, but that the good of these nations might be consulted, as I am confident they will be by you in whatsoever you do; but I may say this in an answer to that, that doth a little pinch upon me, and the more when I am told it is my duty. I think it can be no man's duty nor obligation, but between God and himself, if he be conscious of his own infirmities, disabilities, and weaknesses, and that he is not able perhaps to encounter with, (although he may have a little faith too for a little exercise) I say I do not know which way it can be imputed to me for a fault, or laid upon me as a duty, except I meant to gripe at the

government of the nations without a legal consent, which I say I have done in times past, upon principles of necessity, and I promise I shall think whatever is done without authority of parliament, in order to settlement, will neither be very honest, nor yet that that I understand. I think we have fought for the liberties of the nation as well as for other interests, you will pardon me that I speak these things in such a way as this is, I may be borne withal, because I have not truly well borne the exercise that hath been upon me now these three or four days, I have not I say; I have told you my thoughts and have laid them before you, you have been pleased to give me your grounds, and I have told you mine; and truly, I do purposely refuse to mention those arguments that were used when ye were last here, but rather tell you, what since I tell you lies upon my heart, out of the abundance of difficulty and trouble that lies upon me, and therefore you having urged me, I mean offered reasons to me, and urged them with such grounds as did occur to you, and having told you the last time I met you, that the satisfaction of them did not reach to me so as wholly to convince my judgment of what was my duty: I have thought rather to answer you with telling you my grief and the trouble I am under, and truly, my intentions and purposes they are honest to the nation, and shall be by the grace of God, and I cannot tell how, upon collateral pretences, to cut towards things that will be destructive to the liberties of this nation, any man may give me leave to die, and every body may give me leave to be as a dead man, when God takes away the spirit and life, and activity that is necessary for the carrying on such a work; and, therefore, I do leave the former debates as they were, and we had them, letting you know that I have looked a little upon the paper; the instrument, I would say, in the other parts of it, and considering that there are very many particulars in the instrument, some of the general, of reference, others specified, and all of weight (let the title be what it will be) to the concernment of the nations; I think I may desire that those may be, such as what they be applied to, either one thing or another, they might be such as the people have no cause, as I am confident your care and faithfulness needs neither a spur, nor any admonition to that; I say (reading in your order, by order of parliament for the committee) that there are diverse particulars that are, that if I do make any scruple of them, I should have the freedom with this committee to cast my doubts. The truth of it is, I have a paper here in my hand that doth contain diverse things with relation to the instrument, that I hope have a public aspect with them, therefore, I cannot presume but they will be very welcome to you, therefore I shall desire that you will read them. I should desire, if it please you, that liberty, (which I submit to your judgment whether you think I have it or no) that I might tender these few things and some others that I have in preparation, and truly I shall reduce them to as much brevity as I can; they are too large here, and if it please you to-morrow in the afternoon at three o'clock, I may meet you again, and I hope we shall come to know one another's minds, and shall agree to that that shall be to the glory of God, and the good of these nations.

The Lord Protector, April 21, 1657.

My Lord,

I think you may well remember what the issue was of the last conference I had with you, and what the stick was then, I confess I took occasion from the order of parliament, in which they gave you power to speak with me about these things that were in the body of that instrument and desire, which you have been pleased to speak with me; but that I might confer with you about those particulars, and might receive satisfaction from you as to them, whether a good issue will be to all these affairs or no, is only in the hands of God, that is a great secret, and secrets belong to God, and things revealed to us, and such things are the subject matter of this instrument of

yours, and are as far as they may have relation to me, that you and I may consider what may be for publick good, that so they may receive such an impression as can humanly be given to them. I should be well understood, and that I say the former debates and conferences have been upon the title, and that rests as it did, seeing that, as I said before, your order of commitment doth as well reach to the particulars contained in the instrument, as to that of the title, I did offer to you that I should desire to speak with you about them also, that so we may come to an understanding one with another, not what the things are in parts, but what is in the whole conduceable to that end that we all ought to aim at, which is a general settlement upon good foundations: as truly as I have often said even to the parliament itself, when they did the honour to me to meet me in the Banqueting-House, so I may say to you, that are a committee, a very considerable representation of them, that I am hugely taken with the word settlement, with the thing, and with the notion of it. I think he is not worthy to live in England that is not. No, I will do my part so far as I am able, to expel that man out of the nation that doth not of that in the general come to a settlement; because indeed it is the great misery and unhappiness of a nation to be without it; and it is like a house, and so much worse than a house, divided against itself, it cannot stand without settlement; and therefore I hope we are all so far at a good point, and the spirit of the nation, I hope in the generality of it, is so far at a good point, we are all contending for a settlement, that is sure; but the question is *de modo*, and of those things that will make it a good one, if it were possible. That is no fault to aim at perfection in settlement; truly I have said, and I say it again, that I think that that tends to the making of the nation, to enjoy the things we have declared for, and I would come upon that issue with all men or any man. The things we have declared, that have been the ground of our quarrelling and fighting all along, is that will accomplish the general work. Settlement is the general work; now that which will give the nation to enjoy their civil and religious liberties, that will conserve the liberties of every man, and not to rob any man of what is justly his. I think those two things make up settlement: I am sure they acquit us before God and man, who have endeavoured, as we have done, through some streamings of blood to attain that end. If I may tell you my experience in this business, and offend no good man that loves the publick before that which is personal, truly I shall a little shortly recapitulate to you what my observations, and endeavours, and interest hath been to this end; and I hope no man that hath been interested in transactions all along will blame me if I speak a little plainly; and he shall have no cause to blame me, because I will take myself into the number of the culpable persons, if there be any such, though perhaps apt enough, out of the self-love I have, to be willing to be innocent, where I am so, and yet to be as willing to take my reproach, if any body will lay it upon me, where I am culpable; and truly I have, through the providence of God, endeavoured to discharge a poor duty, having had, as I conceive, a clear call to the station I have acted in all these affairs; and I believe very many are sufficiently satisfied in that I shall not go about to say any thing to clear it to you, but must exercise myself in a little short chronology. To come to that, I say, is really all our business at this time, and the business of this nation to come upon clear grounds; and to consider the providence of God, how they have led us hither unto. After it pleased God to put an end to the war of this nation, a final end, which was done at Worcester, in the determination and decision that was there by the hand of God, for other war we have had none that perhaps deserves the name of war since that time, which is now six years in September, I came up to the parliament that then was, and truly I found the parliament, as I thought, very disposed to put a good issue to all those transactions that had been in the nation, and I rejoiced at it; and though I had not been well skilled in parliamentary affairs, having been near ten years in the field, yet, in my poor measure, my desires did tend

to some issue, believing verily that all the blood that had been shed, and all that distemper that God had suffered to be amongst us, and in some sense God hath raised amongst us, that surely fighting was not the end, but the means that had an end, and was in order to somewhat, truly it was then, I thought, settlement; that is, that men might come to some consistencies, and to that end I did endeavour to add my mite, which was no more than the interests of any one member that was there, after I was returned again to that capacity, and I did, I shall tell you no fable, but the things that diverse persons here can tell, whether I say true or no. I did endeavour it; I would make the best interpretation of this; but yet this is truth, and nothing of discovery on my part, but that which every body knows to be true, that the parliament, having done these memorable things, that they had done things of honour, and things of necessity, things that if at this day you have any judgment, that there lieth a possibility upon you to do any good, to bring this nation to any foot of settlement, I may say you are all along beholden to them in a good measure; but yet truly as men that contend for publick interest are not like to have the applause of all men, nor justification from all hands, so it was with them; and truly when they had made preparation that might lead to the issuing in some good for the settlement of these nations in points of liberty and freedom from tyranny and oppression, from the hazard of our religion, to throw it away upon me that designed by innovations to introduce popery, and by complying with some nations introduce arbitrariness upon a civil account, why they had more enemies than friends, they had so all along, and this made them careful out of principles of nature, that do sometimes suggest best, and upon the most undeniable grounds they did think that it was not fit for them presently to go and throw themselves, and all this cause, into hands that perhaps had no heart nor principle with them to accomplish the end that they aimed at. I say, perhaps, through infirmity they did desire to have continued themselves, and to have perpetuated themselves upon that act, which was perhaps just enough obtained, and necessarily enough obtained when they did get it from the king; though truly it was good in the first obtaining of it, yet it was by most men who had ventured their lives in this cause judged not fit to be perpetuated, but rather a thing that was to have an end when it had finished its course, which was certainly the true way of it, in the subserviency to the bringing in that which might be a good and honest settlement to the nation. I must say to you that I found them very willing to perpetuate themselves; and truly this is not a thing of reflection upon all, for perhaps some were not so; I can say so of some of them; the sober men that I had converse with, they would not have; but the major part I think did over rule, in that they would have continued. This is true that I say to you; I was intreated to it, and advised to it, and was, by this medium, to have accomplished it; that is, to have sent into the country to have reinforced their number, and by new election to have filled them up; and this excuse it had, it would not be against the liberty of the people, nor against the succession of men to come into rule and government; because as men died out of the house, so they should be supplied, and this was the best answer could be given to that objection that was then made, that the best way to govern, is to have men successive, and in such great bodies as parliaments; to have men to learn to know how to obey as well as to govern; and truly the expediment that we had then was, that I tell you, the truth of it is, this did not satisfy a company of poor men, that had thought they had returned their lives, and had some thoughts that they had a little interest to enquire after these things, and the rather because really they were invited out upon principles of honesty, conscience, and religion, for spiritual liberties, as many as would come, where the cause was a little doubtful, there was a declaration that was very inviting, and men did come in upon that invitation, and did thereby think themselves not to be mercenary men, but men that had wives and children in the nation, and therefore might a little look after satisfaction in what

would be the issue of the business, and when this thing was thus prest, and it may be overprest, that a period might be put, and that that might be ascertained, and a time fixed, why, truly, then the extremity ran another way. This is very true that I tell you, though it shame me, I do not say it shames all that were of the house, for I know all were not of that mind; why, truly, when this was urged then another extremity. What was that? Why, truly, then it was seeing a parliament that might not be perpetual, the parliament might always be sitting, and to that end there was a bill framed, that parliaments might always be sitting; that as soon as one parliament went out of place, another might leap in, and when we saw this, truly we thought we did but make a change in pretence, and did not remedy the thing, and then upon that was pursued with that great heat, I dare say there was more progress in it in a month, than was with the like business in four, to hasten it to an issue, that such a parliament might be brought in, and would bring the state of the nation into a continual sitting of parliament. We did think, who are plain men, and I think it still, that that hath been according to the foolish proverb, "Out of the frying-pan into the fire;" for looking at the government, they would then have it was Commonwealth's government. Why, we should have had fine work then; we should have had a council of state, and a parliament of four hundred men, executing arbitrary government without intermission, saving of one company; one parliament stepping into the seat of another, while they left them warm; the same day that one left, the other was to leap in. Truly, I did think, and I do think, however some are very much enamoured with that kind of government, why it was no more but this, that committees of parliament should take upon them, and being instead of the courts at Westminster, perhaps some will think there had been no hurt in that arbitrariness in committees, where a man can neither come to prove nor defend, nor to know his judges, because there are one sort of men that judge him to-day, and another sort of men to-morrow. This should have been the law of England, and thus should have been the way of judging this nation; and truly I thought that that was an ill way of judging; for I may say to you with truth to that, after it pleased God, your poor army, those poor contemptible men came up hither; it was so, an outcry here in this place to see a cause here determined and judged, and committees erected to fetch men from the extremest parts of the nation to London, to attend committees to determine all things, and without any manner of satisfaction, whether a man travel never so right or wrong he must come, and he must go back again as wise as he came. This truly was the case, and our condition, and truly I must needs say, take all in that was in the practices; I am sorry to tell the story of it, though there was indeed some necessity of the business, a necessity of some committees to look to indemnity, but no necessity of committees instead of courts of justice; but it was so, and this was the case of the people of England at that time: and that the parliament, assuming to itself the authority of the three estates that were before, it was so assuming that authority; and if any man would have come and said, what are the rules you judge by? Why, we have none, but we are supreme in legislature and in judicature; this was the state of the case, and I thought, and we thought, and I think so still, that this was a pitiful remedy, and it will be so while and whensoever a legislative is perpetually exercised, when the legislative and the executive powers are always the same: and truly I think the legislature would be almost as well in the four courts of Westminster-Hall; and if they could make laws and judges too, you would have excellent laws, and the lawyers would be able to give excellent counsel, and so it was then. This was our condition, without scruple and doubt, and I shall say no more to it, but truly it was offered then truly and honestly; and desire and beg that we might have a settlement, and that now is here, that is proposed a settlement. It was desired then, it was offered and desired that the parliament would be pleased either of their own number, or any else, to chuse a certain number of men to

settle the nation; this is unsettlement, this is confusion. For give me leave, if any body now have the face to say, and I would die upon this, if any man in England have the impudence or the face to say, that the exceptions of the parliament was the fear of their hasty throwing of the liberties of the people of God, and the nation into a bare representative of the people, which was then the business we opposed; if any man have the face to say it now that did then, or I will say more, ought then to judge it had been a confounding of the whole cause that we had fought for, which was, I would look upon that man's face, I would be glad to see such a man. I do not say there is any such here; but if any such should come to me, see if I would not look upon him, and tell him he is an hypocrite. I dare say it, and I dare to die for it, knowing the spirit that hath been in some men to me; they come and tell me they do not like my being protector. Why do you not? Why, because you will exercise arbitrary government. Why, what would you have me to do? Pray, turn gentlemen all again, and we will like you exceeding well. I was a child in its swadling clouts; I cannot transgress by the government; I cannot do any thing but in ordination with the council; they feared arbitrary government by me upon that account; but if returned to be general, then they were not afraid of arbitrary government. Such as these are, such hypocrisies as these are, should they enter into the heart of any man that hath any truth or honesty in him? And truly that is our case, and finding our case to be thus, we did press the parliament, as I told you, that they would be pleased to select some worthy persons, that had loved this cause and the liberties of England, and the interest of it; and we told them we could acquiesce, and lie at their feet; but to be thrown into parliaments that should sit perpetually, though but for three years, they had the experience of.

The experience of which many remain to this day, to give satisfaction to honest and sober men. Why, truly, we thought it might satisfy, but it did not; and therefore we did think that it was the greatest of dangers to be overwhelmed and brought under a slavery by our own consent, and iniquity to become a law. And there was our ground we acted upon at that time; and truly they had perfected the bill for perpetuating of parliaments to the last clause, and were resolved to pass it as a bill in paper, rather than comply with any expedient. If your own experience add any thing to you in this, in this point, whether or no in cases civil and criminal, if a parliament should assume an absolute power, without any controul, to determine the interests of men in property and liberty; whether or no this be desirable in a nation. If you have any sense, as I believe you have, you have more than I have. I believe you will take it for a mercy that that did not befall England at that time, and that is all I will say of it. Truly, I will now come and tell you a story of my own weakness and folly, and yet it was done in my simplicity, I dare avow it was; and though some of my companions, and truly this is a story that would not be recorded, a story that would not be told, but when good use may be made of it. I say it was thought then that men of our judgment, that had fought in the wars, and were all of a piece upon that account, why surely these men will hit it, and them men will do it to the purpose, whatever can be desired, truly we did think, and I did think so, the more to blame of, and such a company of men were chose, and did proceed in action; and truly this was the naked truth, that the issue was not answerable to the simplicity and honesty of the design. What the issue of that meeting would have been, and was feared, upon which the sober men of that meeting did withdraw, and came and returned my power as far as they could, they did actually the greater part of them into my own hands, professing and believing that the issue of that meeting would have been the subversion of your laws, and of all the liberties of this nation, the destruction of the ministers of this nation. In a word, the confusion of all things; and, instead of order, to set up the judicial law of Moses, in abrogation of all our administrations, to have been administered the judicial law of

Moses, *pro hic et nunc*, according to the wisdom of any man, that would have interpreted the text, this way or that way; and if you do not believe that they were sent home by the major part, who were judicious, and sober, and learned, the worst upon this account, and with my consent, also *à parte post*, you will believe nothing; for the persons that lead in the meeting were Mr Feake and his meeting in Black-Friers, Major-general Harrison, and those that associated with him at one Mr Squibb's house, and there were all the resolutions taken that were acted in that house day by day, and this was so *de facto*, I know it to be true; and that this must be the product of it, I do but appeal to that book I told you of the other day, that all magistracy and ministery is antichristian, and therefore all these things ought to be abolished, which we are certain must have been the issue of that meeting, so that you have been delivered, if I think right, from two evils; the one evil a secular evil, that would have swallowed up all religious and civil interest, and made us under the horridest arbitrariness that ever was exercised in the world; that we might have had five or six hundred friends, with their friends, to have had a judgment of all causes, and to have judged without a rule, thinking that the power that swallowed up all the other lawful powers in the nation, hath all the power that ever they had, both a legislative and judiciary, I say that which swallows both the civil and religious interest. And the other merely under a spiritual interest, had swallowed up again, in another extreme, all our civil and religious interest, and had made our ministry, and all the things we are beholding to God for. Truly, we think we ought to value this interest above all interests in the world; but if this latter had not been as sure destroyed as the former, I understand nothing; and having told you these two things, truly I must needs say it makes me in love with this paper, and with all things in it, and with these additions that I have to tender to you, and with settlement above all things in the world, except that where I left you the last time; and for that I think we have debated. I have heard your mind, and you have heard mine; I have told you my heart and my judgment, and the Lord bring forth his own issue. I think we are now to consider, not what we are on the foot, and of the government that called this parliament, which, 'till there be an end put to it, is that that hath existence; and I shall say nothing to that, if that accomplisheth the end of our fighting, and all those blessed and good ends that we should aim at. If it do, I would we might have that, and remain where we are; if it doth not, I would we might have that which is better, which truly I now come out of myself to tell you, that as to the substance and body of your instrument, I do look upon it as having things in it, (if I may speak freely and plainly,) I may, and we all may, I say the things that are provided for in this government, have the liberties of the people of God, so as they never had it; and he must be a pitiful man that thinks the people of God ever had that liberty, either *de facto* or *de jure*, that is to say, *de jure*, from God. I think they have had it from the beginning of the world to this day, and have it still, but asserted by a *jus humanum*. I say, they never had it so as they have it now; and I think you have provided for the liberty of the people of God and of the nation, and I say he sings sweetly that sings a song of reconciliation betwixt these two interests; and it is a pitiful fancy, and wisdom, and ignorance, to think they are inconsistent, and may consist; and I speak my conscience in this government, I think you have made to consist; and therefore I must say in that, and in other things, you have provided well, that you have; and because I see the root of the parliament gives you leave to speak with me about the particulars, I think the parliament doth think that any member they have is not to be neglected in offering of any thing that may be of additional good, and upon that account, I having a little surveyed the instrument, I have a paper here to offer to you upon that account; and truly I must needs say and think, that in such a case as this, where so new a work, and so strange a work as this that is before you, it will not be thought ill of. I do with a little earnestness press to you

some explanations in some that may help to contemplate, and leave me; for it is only handled with me; this transaction is only handled with me at this time, not with you and the parliament, whom you represent. I say I would be glad that you might leave me and all opposers without excuse; as well as that I could wish that you should settle this nation to the uttermost good of it, in all things I have to offer to you. They are not very weighty; they may tend to the completion of the business; and therefore I shall take the freedom to read them to you.

In the fourth article and second paragraph you have something under that head that respects the calling of members to parliament, you would not exclude those that (were under Duke Hamilton) and made that invasion; because it hath been said to you perhaps, that if you should exclude all, you shall have no members from Scotland; I hope there be persons of that nation, that will be ready to give a better testimony of their country than to admit of that argument; and I hope it is none, but if it be one, then truly to meet with the least upon that certainty of the qualifications, you should indeed exclude men of your own country, perhaps upon better crimes, and hold them off upon stricter characters; it is thought that qualification that saith, that the testimony that they shall have, that they are men that have given good testimony in their peaceable and quiet living, why truly for diverse years, they have not been willing to do other; they have not had an easy possibility to do otherwise, to live unquietly, though perhaps have been the same men many of them; though I know many of them are good men, worthy men, and therefore whether it be not fit, in that place to explain somewhat else, and put some other character upon it, that may be accounted a good testimony of their being otherwise minded, and of their being of another judgment, I confess I have not any thing here to supply it with, but certainly if it should be so, as it is in your article, though they be never so indisposed, and enemies, and remain so; yet if they have lived peaceably, where they could neither will nor chuse, they are to be admitted; I only tell you so, being without any amendment for it, and when I have done I shall offer the whole to you; this is the second paragraph.

In the third paragraph of the same article, whereas it is said, that the persons in Ireland be made uncapable, to elect or be elected, that before the first of March, 1649, have borne arms for the parliament, or otherwise given testimony of their good affections, and continued faithful to the parliament, and are since revolted, whether it be not necessary that it be more clearly exprest, it seeming to capacitate all those who have revolted from the parliament, if they have borne arms for the state, before the first of March, 1649, it seems to restore them; but if since then they have revolted, as many I doubt of our English-Irish have done, why then the question is, Whether these men who have lately been angry and fled to arms, whether you will think their having borne arms formerly on the parliament's side should be an exemption to them? that is but tendered to you that some worthy person here will give an answer unto.

In the fifth paragraph of the same article you have incapacitated public preachers from sitting in parliament, and truly I think, that your intention is such as have pastoral function, such as are actually and real ministers; for I must say to you in the behalf of our army, in their next place to their fighting, they have been very good preachers; and I should be sorry they should be excluded from serving the commonwealth, because they have been accustomed to preach to their troops, companies, and regiments, which I think have been one of the blessings upon them, to the carrying on of the great work. I think you do not mean so, but I tender it to you, that if you think fit there may be a consideration had of it; there may be some of us, it may be, that have been a little guilty of that, that would be loth to be excluded from sitting in parliament. In the same paragraph there is care taken for the nominating commissioners to try the members which are chosen to sit in parliament, and truly those com-

missioners are uncertain persons, and it is hard to say what may happen; I hope they will be always good men, but if they should be bad, then perhaps they will keep out good men: Besides, we think, truly if you will give us leave to help, as to the freedom of the parliament, it will be something that will go rather harshly down than otherwise, very many reasons might be given, but I do but tender it to you, I think if there be no commissioners, it would be never a whit the worse, but if you make qualifications, if any man will presume to sit without those qualifications, you may deal with them: A man without qualifications sitting there, is as if he be not chose, and if he sit without being chosen, and so without a qualification, I am sure the old custom was to send him to the Tower, to imprison such a one, if any one sit there that have not right to sit there, if any stranger come in upon his pretended title of election, then perhaps it was a different case, if any sit there upon a pretence of a qualification upon him, you may send him to prison without any more ado; whether you think fit to do so or no it is parliamentary business, I do but hint to you, I believe if any man had sat in former parliaments that had not taken the oaths prescribed, it would have been a fault enough, &c. I believe something of that kind would be equivalent to any other way, if not better. In that article, which I think is the fifth article, which concerns the nomination of the other house, in the beginning of that article, it is that the house is to be nominated as you design it, and the approbation is to be from this house, I would say to be from the parliament, it is so; but then now, if any shall be subsequently named after this house is sat, upon any accidental removal or death, you do not say, though it seems to refer to the same that the first election doth, yet it doth not refer clearly to this, that the nomination shall be where it was in the chief officer, and the approbation of the other house, if I do express it clearly that you pardon me in, but I think that is the aim of it, it is not clearly exprest there as I think you will be able to judge whether it be or no.

In the 7th article, that which concerns the revenue, that is the revenue that you have appointed to the government, in which you have distributed three hundred thousand pounds of it to the maintainance of the civil authority, one million to be distributed to the maintenance of your forces by sea and land, you have indeed said it in your instrument, and we cannot doubt of it, but yet you have not made it certain, nor yet those temporary supplies which are intended for the peace and safety of the nations. It is desired that you will take it into your thoughts, and make both those certain, both as to the sum and time that those supplies shall be continued, and truly I hope I do not curry favour with you; but it is desired, and I may very reasonably desire it, that these monies whatever they are, that they may not, if God shall bring me to any interest in this business, which lieth in his own power, that these monies may not be issued out by the authority of the chief magistrate, but by the advice of his council, seeing you have in your instrument made a co-ordination in general terms, that this might be a reserved thing, that the monies might not be distributed; it will be a safety to whomsoever is your supreme magistrate, as well as security to the public, that the monies might be issued out by the advice of the council, and that the treasurers that receive this money may be accountable every parliament, within a certain time limited by yourselves, every new parliament, the treasurer may be accountable to the parliament for the disposing of the treasury, and there is mention made of the judges in the 9th article. It is mentioned, that the officers of state and the judges are to be chosen by the approbation of the parliament; if there be no parliament setting, if there be never so great a loss of judges, it cannot be supplied, and whether you do not intend that it should be by the choice with the consent of the council, in the intervals of parliament, to be afterwards approved by parliament.

The twelfth article relates to several qualifications that persons must be qualified with, that are put into places of public office and trust; now if men shall step into public places and trust that are not so qualified they may execute it. An office of trust is a very large word, it goeth to almost a constable, if not altogether, it goeth far; now if any shall come that are not so qualified, they certainly do commit a breach upon your rule; and whether you will not think in this case, that if any shall take upon them an office of trust, that a penalty shall be put upon them where he is excepted by the general rule, whether you will not think it fit in that respect to deter men from accepting of offices and places of trust contrary to that article, the next is fetched in some respects, I may say, by head and shoulders in your instrument; yet in some respects it hath affinity with it, I may say I think is within your order upon this account, I am sure of it, there is a mention in the last parts of your instrument of your purpose to do many good things, I am confident not like the gentleman that made his last will, and set down a great number of the names of men that should receive benefit by him, and there was no sum at the latter end. I am confident, you are resolved to deal effectually in the thing at the latter end; and I should wrong my own confidence if I should think otherwise: I hope you will think sincerely, as before God, that the laws may be regulated; I hope you will. We have been often talking of them, and I remembered well at the old parliament, that we were three months and could not get over the word incumbrances, and then we thought there was little hope of regulating of the law when there was such a difficulty as that; but surely the laws need be regulated, and I must needs say, I think it is a sacrifice acceptable to God upon many accounts; and I am perswaded, it is one thing that God looks for, and would have. I confess, if any man would ask me, why, how would you have it done? I confess I do not know how; but I think verily at the least, the delays in suits, and the excessiveness in fees, and the costliness of suits, and those various things, that I do not know what names they bear, I heard talk of demurrers and such like things which I scarce know; but I say certainly, that the people are greatly suffering in this respect, they are so; and truly, if all this whole business of settlement, whatsoever the issue of it shall be, it comes, as I am perswaded that it doth, as a thing that would please God by a sacrifice in, or rather as an expression of our thankfulness to God: I am perswaded, that this will be one thing that will be upon your hearts to do something that is honourable and effectual in it, that truly I say, that it is not in your instrument, in somewhat that relates to the reformation of manners; you will pardon me, my fellow soldiers, that were raised up upon that just occasion of the insurrection, not only to secure the peace of the nation, but to see that persons that were least likely to help on peace or continue it, but rather to break; dissolute and loose persons, that can go up and down from house to house, and they are gentlemens sons that have nothing to live on, and cannot be supplied to live to the profit of the commonwealth, which I think had a good course taken with them, and I think that which was done to them was honourably, and honestly, and profitably done; and for my own part, I must needs say, it shewed the dissoluteness which was then in the nation, as indeed it springs most from that part of the cavaliers, should that party run on, and no care be taken to reform the nation, to prevent perhaps abuses that will not fall under this consideration; we can send our children into France before they know God or good manners, and return with all the licentiousness of that nation; neither care taken to educate them before they go, nor to keep them in good order when they come home; indeed this makes the nation not only commit those abominable things, most inhuman things amongst us, but hardens men to justify those things; as the apostle saith, not only to do wickedly themselves, but take pleasure in them that do so; and truly, if something be not done in this kind, without sparing that condition of men, without sparing

mens sons, though they be noblemens sons; let them be who they will is deboist, it is for the glory of God, that nothing of outward consideration should save them in their debauchery from a just punishment and reformation; and truly, I must needs say it, I would as much bless God to see something done, as to that heartily, upon this account, not only to those persons mentioned, but to all the nation, that some course might be taken for reformation, that there might be some stop put to such a current of wickedness and evil as that is; and truly, to do it heartily, and nobly, and worthily: The nobility of this nation especially, and the gentry will have cause to bless you, and likewise that some care might be taken that those good laws already made for the punishing vice may be effectually put in execution. This must I needs say of our major-generals that do you service, I think it was an excellent good thing, I profess I do, and I hope you will not think it unworthy of you, that when you have seen that, though you have good against the common country disorders that are every where, who is there to execute them: Really a justice of the peace shall from the most be wondered at, as an owl, if he go but one step out of the ordinary course of his fellow justices in the reformation of these things; and therefore I hope may represent that to you as a thing worthy of your consideration, that something may be found out to suppress such things; I am persuaded you would glorify God in it, as much as by any one thing you can do, and so I think you will pardon me. I cannot tell in this article that I am now to speak unto, whether I speak to any thing or nothing: There is a desire that the publick revenue be not alienated but by the consent of the parliament; I doubt publick revenue is like *custodes libertatis Angliæ*, that is, a notion only, and not to be found as I know of; but if there be any, and God bless us in our settlement, there will be publick revenue accurring, and whether you will subject this to any alienation without the consent of the parliament, is that which is offered to you; truly this thing that I have further to offer to you it is the last in this paper, and it is a thing that is mentioned in the sixteenth article, that you would have those acts and ordinances that have been made since the late troubles during the time of them, that they should, if they be contrary to this advice, that they should remain in such force, in such manner, as if this advice had not been given; why that that is doubted, is whether or no this will be sufficient to keep things in a settled condition, because it is but an implication, it is not determined, but you do pass by the thing without such a foundation as will keep those people which are now in possession of estates upon this account, that their titles may be questioned and shaken, if that be not explained; and truly I believe you intend very fully in this business if the words already do not suffice, that I submit to your own advisement, but there is in this a very great consideration; there hath been since the government several acts and ordinances, that have been made by the exercise of that legislative power that was exercised since we undertook this government, and I think your instrument speaks a little more faintly to these, and dubiously than to the other; and truly I will not make apology for any thing, but surely two persons, two sorts of men will be meerly concerned upon this account; that is, they that are exercised, and the persons who are objects of that exercise, it wholly dissettles them wholly, if you be not clear in your expressions in this business, it will dissettle us very much to think that the parliament, that doth not approve well of what hath been done upon a true ground of necessity, as far as it hath saved this nation from running into total arbitrariness, or subject it to any sort of men that would perhaps do so. We think we have in that thing deserved well of the state; if any man will ask me, But ah, sir, what have you done since? Why ah, as I will confess my fault where I am guilty, so I think taking the things as they were, I think we did the commonwealth service, and we have in that made great settlements, that have we; we have settled almost all the whole affairs in Ireland, the rights and interests of the soldiers there, and of the plant-

ers and adventurers; and truly, we have settled very much of the business of the ministry, and I could wish that that be not to secure the grave men, I wish it be not, but I must needs say, if I have any thing to rejoice before the Lord in this world, as having done any good or service, I can say it from my heart; and I know I say the truth, that it hath been, let any man say what he will to the contrary, he will give me leave to enjoy my own opinion in it, and conscience, and heart, and dare bear my testimony to it, there hath not been such a service to England since the Christian religion was perfect in England, I dare be bold to say it, however here and there there may have been passion and mistakes, and the ministers themselves take the generality of them, they will tell it is besides the instructions, and we did take it upon that account, and we did not trust upon doing that which we did, *virtute instituti* as a *jure divino*, but as a civil good, but ——— so we end in this thing, we know not better how to keep the ministry good, and to augment it to goodness, than to put such men to be triers; men of known integrity and piety, orthodox men, and faithful, we know not how better to answer our duty to God, and the nation, and the people of God, in that respect in doing what we did, and I dare say, if the grounds upon which we went will not justify us, the issue and event of it doth abundantly justify us, God having had exceeding glory by it, in the generality of it, I am confident forty-fold; for as heretofore the men that have been admitted into the ministry in times of episcopacy, alas what pitiful certificates served to make a man a minister! If any man could understand Latin and Greek, it was as if he spake Welsh, he was sure to be admitted, which in those days went for Hebrew with a great many; but certainly the poorest thing in the world would serve turn, and a man was admitted upon such an account, I, and upon a less, I am sure the admission that had been to those places since, had been under this character, as the rule that they must not admit a man, unless he be able to discern some of the grace of God in him, which was so put to, as that it was not foolishly or senselessly, but so far as men could judge according to the rules of charity; but such a man whose good life and conversation they could have a very good testimony of four or five of the neighbouring ministers, who knew him, nor could they admit him, unless he could give a very good testimony of the grace of God in him; and to this I say, I must speak my conscience in it, though a great many are angry at it, all are angry at it, and how shall you please every body: Then say some, none must be admitted, except perhaps he will be baptized, this is their opinion, they will not admit a man into a congregation, except he be so much less to be a minister; the presbyterian he will not admit him, except he will be ordained, generally they will not go to the independants; truly I think if I may not be partial, I think if there be a freedom of judgment, it is there. Here is three sorts of godly men that you are to take care for, and that you have provided for in your settlement; and how could you now put it to the presbyterians, but you must have done it with a possibility of exclusion of all those anabaptists, and of the independants; and now you have put it into the way, that if a man be of any of these judgments, if he have the root of the matter in him, he may be admitted; this hath been our care and work, by some ordinances of ours, both laying the foundations of it, and many hundred of ministers being in upon it, and if this be a time of settlement, then I hope it is not a time of shaking, and therefore I hope you will be pleased to settle this business, that you will neither shake the persons that have been poorly instrumental, to call you to this opportunity of settling this nation, and doing good to it; nor shake those honest men's interests that have been thus settled, considering so much good hath been wrought by them, and so I have done with the offers to you: But here is somewhat that is indeed exceedingly past my understanding, for I have as little skill in arithmetick as I have in the law; there is great sums, it is well if I can count them to you. The present charge of the forces

both by sea and land, including the government, will be two millions four hundred twenty-six thousand nine hundred and eighty-nine pounds, the whole present revenue in England, Scotland, and Ireland, is about one million nine hundred thousand pounds, I think this was reckoned at the most, as now the revenue stands: Why now towards this, you settle by your instrument one million three hundred thousand pounds for the government, and upon that account to maintain the force by sea and land, and this without land-tax I think, and this is short of the revenue, that now may be raised by the government, six hundred thousand pounds, because you see the present government is one million nine hundred thousand pounds, and the whole sum which may now be raised, comes of the present charge five hundred forty-two thousand six hundred and eighty-nine pounds, and although an end should be put to the Spanish war, yet there will be a necessity of the preservation of the peace of the three nations, to keep up the present established army in England, Scotland, and Ireland, and also a considerable fleet for some good time, until it shall please God to quiet, and compose men's minds, and bring the nation to some better consistency, so that considering the pay of the army, coming to upwards of one million one hundred thousand pounds *per annum*, and the government three hundred thousand pounds, it will be necessary, that for some convenient time, seeing you find things as you do, and it is not good to think a wound healed before it be; that there should be raised over and above one million three hundred thousand pounds, the sum of six hundred thousand pounds *per annum*, which makes up the sum of one million nine hundred thousand pounds; that likewise the parliament declare how far they will carry on the Spanish war, and for what time, and what farther sum they will raise for the carrying on the same, and for what time; and if these things be not ascertained, as one saith, money is the cause certainly, whatever the cause is, if money be wanting, the business will fall to the ground, and all our labour will be lost, and therefore I hope you will have a care of our undertakings.

And having received expressions from you, that we may believe, we need not offer these things to you, that these things will be cared for, and these things have all of them been made overture of to you, and are before you, and so have likewise the consideration of the debts, which truly I think are apparent, and so I have done that I have to offer you; I think I have truly for my part, and when I shall understand where it own me to do further, and when I shall understand your pleasure in these things a little further, we have answered the order of parliament, in considering and debating of these things, that were the subject matter of debate and consideration, and when you will be pleased to let me hear further of your thoughts in these things, then I suppose I shall be in a condition to discharge myself, as God shall put in my mind, and I speak not this to evade, but I speak in the fear and reverence of God, and I shall plainly and clearly, I say, when you shall have been pleased among yourselves to take consideration of these things that I may hear what your thoughts are of these things, I do not say that, as a condition to any thing, but I shall be free, and honest, and plain, to discharge myself, of what in the whole, and upon the whole, may reasonably be expected from me, and God shall set me free to answer you in.

His Highness's Speech to the Parliament in the Banquetting-house at Whitehall, 8th of May, 1657.

Mr Speaker,

I came hither to answer that that was in your last paper to your committee you sent to me, which was in relation to the desires which were offered to me by the house, in that they called their petition. I confess that business hath put the house, the parliament, to a great deal of trouble, and spent much time. I am very sorry that it hath

cost me some, and some thoughts, and because I have been the unhappy occasion of the expence of so much time, I shall spend little of it now. I have the best, I can resolve the whole business in my thoughts, and I have said so much already in testimony of the whole, that I think I shall not need to repeat any thing that I have said. I think it is a government that the aims of it seeks much at settling the nation on a good foot in relation to civil rights and liberties, which are the rights of the nation, and I hope I shall never be found to be one of them that shall go about to rob the nation of those rights, but to serve them what I can to the attaining of them. It hath also exceeding well provided for the safety and security of honest men, in that great, natural, and religious liberty, which is liberty of conscience. These are great fundamentals, and I must bear my testimony to them (as I have, and shall do still, so long as God lets me live in this world) that the intentions of the things are very honourable and honest, and the product worthy of a parliament. I have only had the unhappiness, both in my conferences with your committees, and in the best thoughts I could take to myself, not to be convicted of the necessity of that thing that hath been so often insisted upon by you, to wit, the title of king, as in itself so necessary, as it seems to be apprehended by yourselves; and I do, with all honour and respect to the judgment of the parliament, testify that (*cæteris paribus*) no private judgment is to lie in the ballance with the judgment of a parliament, but in things that respect particular persons. Every man that is to give an account to God of his actions, he must in some measure be able to prove his own work, that to have an approbation in his own conscience of that he is to do or forbear, and whilst you are granting others liberties, surely you will not deny me this, it being not only a liberty, but a duty (and such a duty as I cannot without sinning forbear) to examine my own heart, and thoughts, and judgment, in every work which I am to set my hand to, or to appear in or for.

I must confess, therefore, that though I do acknowledge all the other, yet I must be a little confident in this, that what with the circumstances that accompany human actions, whether they be circumstances of time or persons, whether circumstances that relate to the whole, or private or particular circumstances that compass any person that is to render an account of his own actions; I have truly thought, and do still think, that if I should, at the best, do any thing on this account to answer your expectation, it would be at the best doubtingly; and certainly what is so is not of faith, whatsoever is not of faith is sin to him that doth it, whether it be with relation to the substance of the action, about which the consideration is conversant, or whether to circumstances about it which makes all think indifferent actions good or evil to him that doth it. I lying under this consideration, think it my duty, only I could have wished I had done it sooner, for the sake of the house, who had laid so infinite obligations on it: I wish I had done it sooner for your sakes, for saving time and trouble, and, indeed, for the committee's sake, for whom I must acknowledge publickly I have been unseasonably troublesome. I say I could have wished I had given it sooner, but truly this is my answer, That although I think the government doth consist of very excellent parts in all, but in that one thing, the title as to me, I should not be an honest man if I should not tell you that I cannot accept of the government, nor undertake the trouble or charge of it, which I have a little more experienced than every man, what troubles and difficulties do befall men under such trusts and in such undertakings. I say, I am persuaded to return this answer to you, *That I cannot undertake this government with the title of king, and that is mine answer to this great and weighty business.*

The humble Petition and Advice presented unto his Highness the Lord Protector by the Knights, Citizens, and Burgesses, assembled at the Parliament begun and held at Westminster, the 17th Day of September, 1656, and there continued until the 26th Day of June following, and then adjourned until the 20th of January, 1657; as also their humble additional and explanatory Petition and Advice, presented unto his Highness in the same Parliament; together with his Highness's Consent unto the said Petitions, when they were respectively presented.

Printed in the Year 1657.

Cromwell's attempt upon the crown having become abortive, through reasons which are perhaps rather guessed at than positively known to our historians, it only remained for him to clothe the supreme power, which had all along remained in his hands since the dissolution of the Long Parliament, in some form which might be more palatable to his followers than that of royalty. The Instrument of Government had been condemned and scornfully set aside, probably with a view to render his path to monarchy more easy. It was therefore resolved to abandon it entirely, and to substitute in the room, a new constitution, the scheme of which was tendered by the parliament to Cromwell, under the singular title of a "Humble Petition and Advice." This arrangement was represented as the voluntary deed of the whole people of England, through the medium of their representatives. Upon the 25th of March, 1657, the commons had an audience of Cromwell, and their speaker, Widdrington, read over the petition and advice. Clarendon gives the following account of the manner in which it was received by the Protector:

"When this petition and advice was distinctly read to him, after a long pause, and casting up his eyes, and other gestures of perplexity, he signed it, and told them that he came not thither that day as to a day of triumph, but with the most serious thoughts that ever he had in all his life, being to undertake one of the greatest burthens that ever was laid upon the back of any human creature; so that without the support of the Almighty he must necessarily sink under the weight of it, to the damage and prejudice of the nation committed to his charge: therefore he desired the help of the parliament, and the help of all those who feared God, that by their help he might receive help and assistance from the hand of God, since nothing but his presence could enable him to discharge so great a trust. He told them that this was but an introduction to the carrying on of the government of the three nations; and therefore he recommended the supply of the rest that was yet wanting to the wisdom of the parliament, and said, he could not doubt but the same spirit that had led the parliament to this, would easily suggest the rest to them; and that nothing should have induced him to have undertaken that intolerable burthen to flesh and blood, but that he saw it was the parliament's care to answer those ends for which they were engaged, calling God to witness that he would not have undergone it, but that the parliament had determined that it made clearly for the liberty and interest of the nation, and preservation of such as fear God, and if the nation were not thankful to them for their care, it would fall as a sin on their heads.

"But now that they had performed all he could expect from them, he resolved that he would do somewhat for himself, and that all the discourses which had passed of kingship should not pass away in the silence of this address, but that this exultation should be attended with such a noise and solemnity as should make it very little inferior to the other. Therefore, within few days after, he sent a message to the parliament that they would adjourn until such a time as the solemnity of his inauguration should be performed, for the formality whereof they had not provided, nor indeed considered it, as if enough had been done already. For this he appointed

the six and twentieth of June, and in the mean time assigned the care to several persons, that all things should be made ready for the magnificence of such a work.

" On the day appointed, Westminster-hall was prepared and adorned as sumptuously as it could be for a day of coronation. A throne was erected, with a pavilion, and a chair of state under it, to which Cromwell was conducted, in an entry and attendance of his officers, military and civil, with as much state (and the sword carried before him) as can be imagined. When he was sate in the chair of state, and after a short speech, which was but the prologue of that by the speaker of the parliament, Withrington, that this promotion might not seem to be without the nobility's having a share in it, the speaker, with the Earl of Warwick and Whitlock, vested him with a rich purple robe, lined with ermines, the speaker enlarging upon the majesty and integrity of that robe. Then the speaker presented him with a fair Bible, of the largest edition, richly bound. Then he, in the name of all the people, girded a sword about him, and lastly presented him with a sceptre of gold, which he put into his hand, and made a large discourse of those emblems of government and authority; upon the close of which, there being little wanting to a perfect formal coronation but a crown and an archbishop, he took his oath, administered to him by the speaker, in these words (which amongst other things had been settled by an explanatory petition and advice:) " I do, in the presence and by the name of Almighty God, promise and swear that I will uphold and maintain the true reformed protestant Christian religion, in the purity thereof, as it is contained in the Holy Scriptures of the Old and New Testament, and to the utmost of my power and understanding encourage the profession and professors of the same; and that to the utmost of my power I will endeavour, as chief magistrate of these three nations, the maintenance and preserving of the peace and safety, and just rights and privileges of the people thereof, and shall in all things, according to the best of my knowledge and power, govern the people of these three nations according to law."—CLARENDON, III. 467.

To his Highness the Lord Protector of the Commonwealth of England, Scotland, and Ireland, and the Dominions thereto belonging.

WE, the knights, citizens, and burgesses, in this present parliament assembled, taking into our most serious consideration the present state of these three nations, joined and united under your Highness's protection, cannot but in the first place, with all thankfulness, acknowledge the wonderful mercy of Almighty God, in delivering us from that tyranny and bondage, both in our spiritual and civil concernments, which the late king and his party designed to bring us under, and pursued the effecting thereof by a long and bloody war; and also that it hath pleased the same gracious God to preserve your person in many battles, to make you an instrument for preserving our peace, although environed with enemies abroad, and filled with turbulent, restless, and unquiet spirits in our own bowels, that as in the treading down the common enemy, and restoring us to peace and tranquillity, the Lord hath used you so eminently, and the worthy officers and soldiers of the army (whose faithfulness to the common cause we and all good men shall ever acknowledge, and put a just value upon;) so also, that he will use you and them in the settling and securing our liberties, as we are men and Christians, to us and our posterity after us, which are those great and glorious ends which the good people of these nations have so freely, with the hazard of their lives and estates, so long and earnestly contended for. We consider, likewise, the continual danger which your life is in, from the bloody practices both of the malignant and discontented party (one whereof, through the goodness of God, you have been lately delivered from,) it being a received principle amongst them, that no order being settled in your life-time for the succession in the government, nothing is wanting to bring us into blood and confusion, and them to their desired ends, but the destruction of your person; and in case things should thus remain at your death, we are not able to express what calamities would, in all human probability, ensue thereupon, which we trust your

Highness (as well as we) do hold yourself obliged to provide against, and not to leave a people, whose common peace and interest you are intrusted with, in such a condition as may hazard both, especially in this conjuncture, when there seems to be an opportunity of coming to a settlement upon just and legal foundations. Upon these considerations, we have judged it a duty incumbent upon us, to present and declare these our most just and necessary desires to your Highness.

I. That your Highness will be pleased, by and under the name and stile of Lord Protector of the Commonwealth of England, Scotland, and Ireland, and the dominions and territories thereunto belonging, to hold and exercise the office of chief magistrate of these nations, and to govern according to this petition and advice in all things therein contained, and in all other things according to the laws of these nations, and not otherwise; that your Highness will be pleased, during your lifetime, to appoint and declare the person who shall, immediately after your death, succeed you in the government of these nations.

II. That your Highness will, for the future, be pleased to call parliaments, consisting of two houses (in such manner and way as shall be more particularly afterwards agreed and declared in this petition and advice) once in three years at furthest, or oftener, as the affairs of the nation shall require, that being your great council, and in whose affection and advice yourself and this people will be most safe and happy.

III. That the ancient and undoubted liberties and privileges of parliament (which are the birth-right and inheritance of the people, and wherein every man is interested) be preserved and maintained; and that you will not break or interrupt the same, nor suffer them to be broken or interrupted; and particularly, that those persons who are legally chosen by a free election of the people to serve in parliament, may not be excluded from sitting in parliament to do their duties, but by judgment and consent of that house whereof they are members.

IV. That those who have advised, assisted, or abetted the rebellion of Ireland, and those who do or shall profess the popish religion, be disabled and made incapable for ever to be elected, or to give any vote in the election of any member to sit or serve in parliament: And that all and every person and persons, who have aided, abetted, advised, or assisted in any war against the parliament, since the first day of January, one thousand six hundred forty-one (unless he or they have since borne arms for the parliament or your Highness, or otherwise given signal testimony of his or their good affection to the commonwealth, and continued faithful to the same;) and all such as have been actually engaged in any plot, conspiracy, or design against the person of your Highness, or in any insurrection or rebellion in England or Wales, since the sixteenth day of December, one thousand six hundred fifty-three, shall be for ever disabled and made uncapable to be elected, or give any vote in the election of any member to sit or serve in parliament. That for Scotland none be capable to elect, or be elected to sit or serve in parliament, who have been in arms against the parliament of England, or against the parliament in Scotland, before the first day of April, one thousand six hundred forty-eight (except such as have since borne arms in the service of the parliament of England or your Highness, or given other signal testimony of their good affection,) nor any that since the said first day of April, one thousand six hundred forty-eight, have been in arms, or otherwise aided, abetted, advised, or assisted in any war against the parliament of England or your Highness, except such as since the first of March, one thousand six hundred fifty-one (old stile,) have lived peaceably, and thereby given testimony of their good affection to the parliament and your Highness.

Provided, that nothing in this article contained shall extend to put any incapacity upon any English or Scotch protestants in Ireland, either to elect or be elected to serve in parliament, who before the first day of March, one thousand six hundred forty-nine,

have borne arms for the parliament or your Highness, or otherwise given signal testimony of their good affection to this commonwealth, and continued faithful to the same: That all votes and elections, given or made contrary, or not according to the qualifications aforesaid, shall be void and of none effect: And that if any person or persons so uncapable as aforesaid, shall give his or their vote, for election of members to serve in parliament, all and every such person or persons so electing, shall lose and forfeit one year's value of his and their respective real estates, and one full third part of his and their respective personal estates; the one moiety thereof to your Highness, and the other moiety to him or them who shall sue for the same in any court of record by action of debt, bill, plaint, or information, wherein no essoign, wager of law, or protection, shall be allowed: And that the persons who shall be elected to serve in parliament be such, and no other than such, as are persons of known integrity, fearing God, and of good conversation, and being of the age of twenty-one years, and not such as are disabled by the act of the seventeenth year of the late king, entitled, "An Act for disenabling all persons in holy orders to exercise any temporal jurisdiction or authority, nor such as are public ministers, or public preachers of the gospel:" Nor such as are guilty of any of the offences mentioned in an act of parliament bearing date the ninth of August, one thousand six hundred and fifty, entitled, "An act against several atheistical, blasphemous, and execrable opinions, derogatory to the honour of God, and destructive to human society," no common scoffer nor reviler of religion, or of any person or persons for professing thereof, no person that hath married or shall marry a wife of the popish religion, or hath trained, or shall train up his child or children, or any other child or children under his tuition or government, in the popish religion, or that shall permit or suffer such child or children to be trained up in the said religion, or that hath given or shall give his consent that his son or daughter shall marry any of that religion; no person that shall deny the Scriptures to be the word of God, or the sacraments, prayer, magistracy, and ministry, to be the ordinances of God; no common prophaner of the Lord's day, nor prophane swearer or curser, no drunkard, or common haunter of taverns or ale-houses. And that these qualifications may be observed, and yet the privilege of parliament maintained, we desire that it may be by your Highness's consent ordained, that forty-one commissioners be appointed by act of parliament, who, or any fifteen or more of them, shall be authorized to examine and try whether the members to be elected for the house of commons in future parliaments be capable to sit, according to the qualifications mentioned in this petition and advice: And in case they find them not qualified accordingly, then to suspend them from sitting until the house of commons shall, upon hearing of their particular cases, admit them to sit; which commissioners are to stand so authorized for that end, until the house of commons, in any future parliament, shall nominate the like number of other commissioners in their places; and those other commissioners, so to be nominated in any future parliament, to have the same powers and authorities: That the said commissioners shall certify in writing to the house of commons, on the first day of their meeting, the causes and grounds of their suspensions of any persons so to be elected as aforesaid: That the accusation shall be upon the oath of the informer, or of some other person: That a copy of the accusation shall be left by the party accusing, in writing under his hand, with the party accused, or, in his absence, at his house in the county, city, or town, for which he shall be chosen, if he have any such house, or if not, with the sheriff of the county, if he be chosen for a county, or with the chief magistrate of the city or borough for which he is chosen: And that the number of persons to be elected and chosen to sit and serve in parliament for England, Scotland, and Ireland, and the distribution of the persons so chosen within the counties, cities, and boroughs of them respectively, may be according to such proportions as shall be agreed upon and declared in this present parliament.

V. That your Highness will consent that none be called to sit and vote in the other house but such as are not disabled, but qualified according to the qualifications mentioned in the former article, being such as shall be nominated by your Highness and approved by this house; and that they exceed not seventy in number, nor be under the number of forty (whereof the quorum to be one and twenty,) who shall not give any vote by proxies; and that as any of them do die, or be legally removed, no new ones be admitted to sit and vote in their rooms, but by consent of the house itself: That the other house do not proceed in any civil causes, except in writs of error, in cases adjourned from inferior courts into the parliament for difficulty, in cases of petitions against proceedings in courts of equity, and in cases of the privileges of their own house: That they do not proceed in any criminal causes whatsoever, against any person criminally, but upon an impeachment of the commons assembled in parliament, and by their consent: That they do not proceed in any cause, either civil or criminal, but according to the known laws of the land, and the due course and custom of parliament: That no final determinations or judgments be by any members of that house, in any cause there depending, either civil, criminal, or mixed, as commissioners or delegates, to be nominated by that house; but all such final determinations and judgments to be by the house itself; any law or usage to the contrary notwithstanding.

VI. That in all other particulars which concern the calling and holding of parliaments, your Highness will be pleased, that the laws and statutes of the land be observed and kept; and that no laws be altered, suspended, abrogated, or repealed, or new law made but by act of parliament.

VII. And to the end there may be a constant revenue for support of government, and for the safety and defence of these nations by sea and land, we declare our willingness to settle forthwith a yearly revenue of thirteen hundred thousand pounds, whereof ten hundred thousand pounds for the navy and army, and three hundred thousand pounds for the support of the government, and no part thereof to be raised by a land-tax; and this not to be altered without the consent of the three estates in parliament; and to grant such other temporary supplies, according as the commons assembled in parliament shall from time to time adjudge the necessities of these nations to require: and do pray your Highness, that it be declared and enacted, that no charge be laid, nor no person be compelled to contribute to any gift, loan, benevolence, tax, tallage, aid, or other like charge without common consent by act of parliament, which is a freedom the people of these nations ought by the laws to inherit.

VIII. That none may be added or admitted to the privy-council of your Highness, or successors, but such as are of known piety and undoubted affection to the rights of these nations, and a just christian liberty in matters of religion, nor without consent of the council to be afterwards approved by both houses of parliament, and shall not afterwards be removed but by consent of parliament, but may, in the intervals of parliament, be suspended from the exercise of his place by your Highness, or your successors, and the council, for just cause; and that the number of the council shall not be above one and twenty, whereof the quorum to be seven, and not under: as also, that after your Highness's death, the commander-in-chief, under your successors, of such army or armies as shall be necessary to be kept in England, Scotland, or Ireland, as also all such field-officers at land, or generals at sea, which, after that time, shall be newly made and constituted by your successors, be by consent of the council, and not otherwise: and that the standing forces of this commonwealth shall be disposed of by the chief magistrate, by consent of both houses of parliament, sitting the parliament; and, in the intervals of parliament, by the chief magistrate, by the advice of the council: and also, that your Highness and successors will be pleased to exercise your government over these nations by the advice of your council.

IX. And that the chancellor, keeper or commissioners of the great seal of England,

the treasurer or commissioners of the treasury there, the admiral, the chief governor of Ireland, the chancellor, keeper or commissioners of the great seal of Ireland, the chief justices of both the benches, and the chief baron in England and Ireland, the commander-in chief of the forces in Scotland, and such officers of the state there, as, by act of parliament in Scotland, are to be approved by parliament, and the judges in Scotland hereafter to be made, shall be approved of by both houses of parliament.

X. And whereas your Highness, out of your zeal to the glory of God, and the propagation of the gospel of the Lord Jesus Christ, hath been pleased to encourage a godly ministry in these nations, we earnestly desire, that such as do openly revile them or their assemblies, or disturb them in the worship or service of God, to the dishonour of God, scandal of good men, or breach of the peace, may be punished according to law; and where the laws are defective, that your Highness will give consent to such laws as shall be made in that behalf.

XI. That the true protestant Christian religion, as it is contained in the Holy Scriptures of the Old and New Testament, and no other, be held forth and asserted for the public profession of these nations; and that a confession of faith, to be agreed by your Highness and the parliament, according to the rule and warrant of the scriptures, be asserted, held forth, and recommended to the people of these nations, that none may be suffered or permitted, by opprobrious words or writing, maliciously or contemptuously to revile or reproach the confession of faith to be agreed upon as aforesaid: and such who profess faith in God the Father, and in Jesus Christ his eternal son, the true God, and in the Holy Spirit, God co-equal with the Father and the Son, one God blessed for ever; and do acknowledge the holy Scriptures of the Old and New Testament to be the revealed will and word of God, and shall in other things differ in doctrine, worship, or discipline, from the public profession held forth, endeavours shall be used to convince them by sound doctrine, and the example of a good conversation. But that they may not be compelled thereto by penalties, nor restrained from their profession, but protected from all injury and molestation in the profession of the faith, and exercise of their religion; whilst they abuse not this liberty to the civil injury of others, or the disturbance of the public peace, so that this liberty be not extended to popery or prelacy, or to the countenancing such who publish horrible blasphemies, or practise or hold forth licentiousness or prophaneness under the profession of Christ: And that those ministers or public preachers who shall agree with the public profession aforesaid, in matters of faith, although in their judgment and practice they differ in matters of worship and discipline, shall not only have protection in the way of their churches and worship respectively, but be esteemed fit and capable, notwithstanding such difference, (being otherwise duly qualified and duly approved,) of any trust, promotion, or employment whatsoever in these nations, that any ministers who agree in doctrine, worship, and discipline with the public profession aforesaid are capable of. And all others who agree with the public profession in matters of faith, although they differ in matters of worship and discipline as aforesaid, shall not only have protection as aforesaid, but be esteemed fit and capable (notwithstanding such difference, being otherwise duly qualified) of any civil trust, employment, or promotion in these nations. But for such persons who agree not in matters of faith with the public profession aforesaid, they shall not be capable of receiving the public maintenance appointed for the ministry. Provided, that this clause shall not be construed to extend to enable such ministers or public preachers, or pastors of congregations; but that they be disenabled, and they are hereby disenabled to hold any civil employment, which those in orders were, or are disenabled to hold, by an act, intituled, "An Act for disenabling all persons, in holy orders, to exercise any temporal jurisdiction or authority." And that your Highness will give your consent, that all laws, statutes, ordinances, and clauses in any law, statute, and ordinance, so far as they are contrary to the aforesaid liberty, be repealed.

XII. That all acts and ordinances of parliament made for the abolishing archbishops and bishops, and for the abolishing of deans, deans and chapters, canons, prebends, and other offices and titles of, or belonging to, any cathedral, or collegiate church or chapel; and for the sale or other disposition of the lands, rents, and hereditaments, unto any or either of them belonging; or for the sale or other disposition of the lands, rents, and hereditaments of the late king, queen, or prince; or of the lands of delinquents, fee-farm, or other rents, forest lands, or any of them; or any other lands, tenements, rents, or hereditaments, lately belonging to the commonwealth, shall no way be impeached, but that they do remain good and firm. And that the security given by act and ordinance of parliament, for any sum or sums of monies by any of the said lands, the excise, or by any other public revenue; and also the securities given by the public faith of the nation, and the engagement of the public faith for satisfaction of debts, may remain firm and good, and not be made void by any pretence whatsoever.

XIII. That all and every person and persons who have aided, abetted, advised, or assisted in any war against the parliament, since the first day of January, 1641, (unless he or they have since borne arms for the parliament, or your Highness, or otherwise given signal testimony of his or their good affection to the commonwealth, and continued faithful to the same) and all such as have been actually engaged in any plot, conspiracy, or design, against the person of your Highness, or any insurrection or rebellion in England or Wales, since the 16th of December, 1653: and for Scotland, that all and every person and persons, who have been in arms against the parliament of England, or against the parliament in Scotland, before the first day of April, 1648, (except such as have since borne arms in the service of the parliament of England, or your Highness, or given other signal testimony of their good affection,) and every person or persons, that since the said first day of April, 1648, have been in arms, or otherwise aided, abetted, advised, or assisted in any war against the parliament of England, or your Highness, (except such persons who having been in arms, or otherwise abetted, advised, or assisted in any war against the parliament of England, or your Highness, since the first day of April, 1648, and were not in arms against the parliament of England, or against the parliament of Scotland, before the first day of April, 1648, and have, since the first day of March, 1651, (old style,) lived peaceably, and thereby given testimony of their good affection to the parliament and your Highness,) be made uncapable for ever of holding or enjoying of any office or place of public trust in these three nations, or any of them.

Provided, that nothing in this article contained, shall extend to put any incapacity in this article mentioned, upon any English or Scotish protestants in Ireland, who, before the first day of March, 1649, have borne arms for the parliament, or your Highness, or otherwise given signal testimony of their good affection to this commonwealth, and continued faithful to the same.

XIV. And that your Highness will be pleased to consent, that nothing in this petition and advice contained, nor your Highness's assent thereto, shall be construed to extend to the dissolving of this present parliament; but that the same shall still continue and remain, until such time as your Highness shall think fit to dissolve the same.

XV. And that nothing contained in this petition and advice, nor your Highness's consent thereunto, shall be construed to extend to the repealing or making void of any act or ordinance which is not contrary hereunto, or to the matters herein contained; but that the said acts and ordinances not contrary hereunto, shall continue and remain in force, in such manner as if this present petition and advice had not at all been had or made, or your Highness's consent thereunto given.

XVI. And that all writs issued out of the Chancery, and all writs and patents of the justices of the one bench and of the other, barons of the Exchequer, commissioners of oyer and terminer, goal delivery, and justices of the peace, and all other commissions, patents, and grants, made and passed under the great seal of England, Scotland, or Ireland, shall stand good and effectual in the law, notwithstanding this petition and advice, or your Highness's assent thereunto, or any law, statute, or custom to the contrary; and that all writs and all commissions, indictments, informations, process, actions, suits, bills, or plaints, taken out, or now depending in any court of record at Westminster, or any other court of record in England, Scotland, or Ireland, or in the town of Berwick upon Tweed; and all process, pleas, demurrers, continuances, and proceedings in every such writs, indictments, informations, actions, suits, bills, and plaints, shall be returnable, stand good and effectual, and be prosecuted and sued forth, in such manner and form, and in the same state, condition, and order, the stile and test of proceedings, after passing of these presents, being made conformable thereunto, this present petition and advice, or your Highness's assent thereunto, or any law, custom, or usage to the contrary thereof in any wise notwithstanding: And that any variance that shall be occasioned by reason thereof, touching any the said writs, process, or proceedings, in the name, stile, test, or otherwise, shall not be in any wise material as concerning any default or error to be alledged or objected thereunto.

XVII. And that your Highness and your successors will be pleased to take an oath, in such form as shall be agreed upon by your Highness and this present parliament, to govern these nations according to the law.

And in case your Highness shall not be satisfied to give your consent to all the matters and things in this humble petition and advice, that then nothing in the same be deemed of force to oblige the people of these nations in any the particulars therein contained.

And these our desires being granted by your Highness, we shall hope (through the rich mercy and goodness of God) that it will prove some remedy to those dangers, distractions, and distempers which these nations are now in, and be an effectual means to remove those jealousies and fears which remain in the minds of many men concerning the government of this commonwealth; and thereby we shall be enabled and encouraged, with all chearfulness, to the settling of such things which shall be further necessary for the good of these nations, and be most ready to join with you in promoting the work of reformation, happily begun by your Highness, the regulating courts of justice, and abridging both the delays and charges of law suits, and apply ourselves to such other courses and counsels as may be most like to heal our breaches and divisions, and to restore these poor nations to a union and consistency with themselves, and to lay a foundation of further confidence between your Highness and them, to the rejoicing of the hearts of our friends, and terror of our enemies.

Which petition being presented the 25th day of May, 1657, his Highness's answer thereunto was read by the clerk of the parliament in these words,

The Lord Protector doth consent.

To his Highness the Lord Protector of the Commonwealth of England, Scotland, and Ireland, and the Dominions and Territories thereunto belonging:

The humble additional and explanatory Petition and Advice of the Knights, Citizens, and Burgesses, now assembled in the Parliament of this Commonwealth.

Whereas, upon the humble petition and advice of the said knights, citizens, and burgesses now assembled in the parliament of this commonwealth, lately presented and

consented unto by your Highness, certain doubts and questions have arisen concerning some particulars therein comprised; for explanation whereof, may it please your Highness to declare and consent unto the additions and explanations hereafter mentioned, and may it be declared with your Highness's consent,

In the fourth Article.

That such person and persons as invaded England, under Duke Hamilton, in the year 1648, or advised, consented, assisted, or voluntarily contributed unto that war, and were for that cause debarred from public trust by the parliament of Scotland, be uncapable to elect, or be elected, to sit and serve as members of parliament, or in any other place of public trust, relating unto the fourth and thirteenth articles in the petition and advice, excepting such as since have borne arms for your Highness, or the parliament, or have been admitted to sit and serve in the parliament of this commonwealth, and are of good life and conversation, or such as shall hereafter be declared by your Highness, with the advice of your council, to have given some signal testimony of their good affection and continuance in the same.

That the proviso in the said fourth article be explained thus, viz. That such English and Scotish protestants who (since the defection of the Earl of Ormond and the Lord Inchiquin, and before the first day of March, 1649,) have borne arms for, and ever since continued faithful to the parliament, or your Highness, or have otherwise (before the said first day of March, 1649) given signal testimony of their good affection to this commonwealth, and have ever since continued faithful to the same, shall not be debarred or deemed uncapable of electing, or being elected to serve in parliament.

And whereas in the said fourth article, public ministers, or public preachers of the gospel, are disabled to be elected to serve in parliament; it is hereby explained and declared to extend to such ministers and preachers only as have maintenance for preaching, or are pastors or teachers of congregations.

In the said fourth Article.

That, instead of commissioners to be appointed by act of parliament to examine and try whether the members to be elected for the house of commons, in future parliaments, be capable to sit according to the qualifications mentioned in the said petition and advice, there shall be the penalty and fine of one thousand pounds laid and inflicted upon every such unqualified member (being so adjudged) by the said house of commons, and imprisonment of his person until payment thereof.

And that the ensuing clauses in the said article, viz. "We desire that it may, by your Highness's consent, be ordained, that forty and one commissioners be appointed by act of parliament, who, or five, or more of them, shall be authorised to examine and try whether the members to be elected for the house of commons, in future parliaments, be capable to sit, according to the qualifications mentioned in this petition and advice; and in case they find them not qualified accordingly, then to suspend them from sitting, until the house of commons shall, upon hearing their particular cases, admit them to sit; which commissioners are to stand so authorised for that end, until the house of commons, in any future parliament, shall nominate the like number of other commissioners in their places; and those other commissioners, so to be nominated in any future parliament, to have the same power and authority: That the said commissioners shall certify in writing to the house of commons, on the first day of their meeting, the cause and grounds of their suspensions of any person so to be elected as aforesaid: That the accusation shall be upon oath of the informant, or some other person: That a copy of the accusation shall be left, by the party accusing, in writing under his hand, with the party accused, or, in his absence, at his house in the country, city, or town for which he shall be chosen, if he have any such house; or, if not, with

the sheriff of the county, if he be chosen for a county, or with the chief magistrate of the city or borough for which he is chosen," shall not be put in execution, or made use of, but shall be void, frustrate, null, and of none effect, and shall be so construed and taken to all intents and purposes whatsoever, any thing contained in the said petition and advice to the contrary notwithstanding.

In the fifth Article.

That the nomination of the persons to supply the place of such members of the other house as shall die, or be removed, shall be by your Highness and your successors.

In the seventh Article.

That the monies directed to be for the supply of the sea and land forces, be issued by advice of the council; and that the treasurer or commissioners of the treasury, shall give an account of all the said money to every parliament.

That the officers of state and judges, in the ninth article of the said petition and advice mentioned, shall be chosen in the intervals of parliament, by the consent of the council, to be afterwards approved by the parliament.

That your Highness will be pleased according to the usage of former chief magistrates in these nations, and for the better satisfaction of the people thereof, to take an oath in the form ensuing:

"I do, in the presence and by the name of God Almighty, promise and swear, that to the uttermost of my power, I will uphold and maintain the true reformed protestant Christian religion in the purity thereof, as it is contained in the Holy Scriptures of the Old and New Testament, to the uttermost of my power and understanding, and encourage the profession and professors of the same; and that to the utmost of my power, I will endeavour, as chief magistrate of these three nations, the maintenance and preservation of the peace and safety, and of the just rights and privileges of the people thereof; and shall in all things, according to my best knowledge and power, govern the people of these nations according to law."

That your Highness's successors do, before they take upon them the government of these nations, take an oath in the form aforesaid.

That all such persons who now are, or shall hereafter be of the privy council of your Highness or successors, before they, or either of them do act as counsellors, shall respectively take an oath before persons to be authorised by your Highness and successors for that purpose, in the form following:

"I A. B., do in the presence and by the name of God Almighty, promise and swear, that to the uttermost of my power, in my place, I will uphold and maintain the true reformed protestant Christian religion in the purity thereof, as it is contained in the Holy Scriptures of the Old and New Testament, and encourage the profession and professors of the same; and that I will be true and faithful to his Highness the Lord Protector of the Commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging, as chief magistrate thereof; and shall not contrive, design, or attempt any thing against the person or lawful authority of his said Highness, and shall keep secret all matters that shall be treated of in council, and put under secrecy, and not reveal them but by command or consent of his Highness, the parliament, or the council, and shall in all things faithfully perform the trust committed to me as a counsellor, according to the best of my understanding, in order to the good government, peace, and welfare of these nations."

That the same oath be taken by the members of your Highness's council of Scotland and Ireland.

That every person who now is, or hereafter shall be a member of either house of parliament, before he sit in parliament, shall, from and after the first day of July, 1657, take an oath before persons to be authorised and appointed by your Highness and successors for that purpose, in the form following:

"I A. B., do in the presence and by the name of God Almighty, promise and swear, that to the uttermost of my power, in my place, I will uphold and maintain the true reformed protestant Christian religion in the purity thereof, as it is contained in the Holy Scriptures of the Old and New Testament, and encourage the profession and professors of the same, and that I will be true and faithful to the Lord Protector of the Commonwealth of England, Scotland, and Ireland, and the dominions and territories thereunto belonging, as chief magistrate thereof; and shall not contrive, design, or attempt any thing against the person or lawful authority of the Lord Protector, and shall endeavour, as much as in me lies, as a member of parliament, the preservation of the rights and liberties of the people."

That your Highness would be pleased, in convenient time, before the next meeting of this parliament, to cause several summons, in due form of law, to be issued forth to such persons as your Highness shall think fit (being qualified according to the humble petition and advice of the parliament, whereto your Highness hath consented) to sit and serve as members in the other house of parliament; by which summons the said persons shall be respectively commanded to be, and personally to appear at a certain place and time to be appointed by your Highness, to give their advice and assistance, and to do such things concerning the great and weighty affairs of this commonwealth, as to the other house of parliament doth appertain by the said humble petition and advice.

That the persons so summoned and assembled together, shall be, and are hereby declared to be the other house of parliament; and shall and may, without farther approbation of this house, from such time of their meeting, proceed to do and perform all such matters and things as the other house of parliament ought to do and perform, and shall and may have, and exercise all such priviledges, powers, and authorities as the other house of parliament ought by the aforesaid humble petition and advice to have and exercise, the said humble petition and advice, or any thing therein contained to the contrary thereof notwithstanding.

Which petition being presented the 26th day of June, 1657, his Highness's answer thereunto was read by the clerk of the parliament, in these words:

The Lord Protector doth consent.

An Account of the Burial of King Charles the First and of Oliver Cromwell. In which it appears how Oliver's Friends contrived to secure his Body from future Disgrace, and to expose the Corpse of King Charles to be substituted in the Punishment and Ignominy designed for the Usurper's Body. MS.

"Amongst other papers the following MS. was carefully preserved by my Lord Oxford. It contains an extract from the journal of the house of commons, which honourable house resolving to disgrace the name of the late usurper, Oliver Cromwell, as far as lay in their power, ordered his body to be taken up, and to be first hanged on the gallows at Tyburn, and then to be burnt.

"The order was pursued by the serjeant of that honourable house so far as to find a coffin, with Oliver's name and usurped titles, at the east end of the middle isle of Henry the Seventh's Chapel, in Westminster-Abbey.

"This, with an account where the said inscription is, or was within a few years ago to be seen, is written in a very fair hand.

"Then, in two different hands, there follows the most remarkable account of a counter-interment of the arch-traytor, as well as the reason and contrivance to secure his body from that expected ignominy, and to continue the revenge of King Charles's enemies, even to the disgrace of substituting the body of the beheaded king, in the punishment intended by a justly enraged people upon the body of the usurper."

Thus far the original editor of these tracts. It may be added, that authors of different principles have agreed in stating, that there was something mysterious in the manner of interring Cromwell, and that his body was not actually transported to the grave with the funeral procession, which cost so much expence and attracted so much envy. Dr Bates gives us the following account of the matter:—"His body being opened in the animal parts, the vessels of the brain seemed to be overcharged; in the vitals the lungs a little inflamed; but in the natural, the source of the distemper, appeared the spleen, though sound to the eye, being filled with matter like to the lees of oil. Nor was that incongruous to the disease, that for a long time he had been subject unto, since for, at least, thirty years he had at times heavily complained of hypochondrical indisposition. Though his bowels were taken out and his body filled with spices, wrapped up in a four-fold sear-cloth, but put first into a coffin of lead and then into a wooden one, yet it purged and wrought through all, so that there was a necessity for interring it before the solemnity of his funeral." We have a very different account from Mr Oldmixon, who assures us that he had it from a gentlewoman who attended the Protector in his last sickness, "She told me," said he, "that the day after Cromwell's death, it was consulted how to dispose of his corpse; they could not pretend to keep it for the pomp of a public burial. Amongst other proposals this was one, that considering the malice, rage, and cruelty of the cavaliers, it was most certain that they, who never spared either living or dead in the lust of their revenge, would insult the body of this their most potent enemy if ever it was in their power; and to prevent its falling into such barbarous hands, it was resolved to wrap it up in lead, to put it aboard a barge, and sink it in the deepest part of the Thames, which was done in the night following, two of his near relations with some trusty soldiers, undertaking to do it."—*Biogr. Brit.* IV. 510.

But although these relations, as well as that which follows, may, however contradictory, be admitted to prove the general opinion, that the Protector's body was buried before the ceremony of his public funeral, yet it seems absurd to suppose that any fear of the vengeance of the cavaliers, a party then at the lowest ebb, should have induced the relations of Cromwell to alter the place of his interment. Far less is it possible to give credit to the strange and *recherché* mode of evading a disgrace which was then surely far from being anticipated, by substituting the body of Charles I. in the room of Cromwell's.

There can be no doubt, that when the tomb was opened after the Restoration, a body was found in it, and the inscriptions on the coffin, as well as common sense, lead us to conclude it must have been the Protector's.

Soon after the Restoration, the then serjeant of the house of commons was ordered by the house to go with his officers to St Peter's, Westminster, and demand the body of Oliver Cromwell buried there, to be taken up in order to be disposed in the manner the house should adjudge fitting.

Whereupon the said serjeant went, and in the middle isle of Henry the Seventh's Chapel, at the east end, upon taking up the pavement in a vault was found his corpse, in the inside of whose coffin and upon the breast of the corpse was laid a copper plate, finely gilt, inclosed in a thin case of lead; on the one side whereof were engraved the arms of England, impaled with the arms of Oliver, and on the reverse, the following, viz.

Oliverius Protector Reipublicæ Angliæ, Scotiæ, et Hiberniæ, Natus 25° *April*, 1599, *Inauguratus* 16° *Dec.*ris 1653, *Mortuus* 3.tio *Sept.*ris *Anno* 1658, *Hic situs est.*

The said serjeant believing the plate to be gold took it pretendedly as his fee, and Mr Gifford of Colchester, who married the serjeant's daughter, has now the plate, which his father-in-law told him he came by in the manner above related.

A Counter-Interment of the aforesaid Arch-traytor, as averred and ready to be deposed, (if occasion required) by Mr — Barkstead, who daily frequents Richard's Coffeehouse, within Temple-Bar, being Son to Barkstead the Regicide, that was executed as such soon after the Restoration; the Son being at the Time of the said Arch-traytor's Death about the Age of Fifteen Years.

That the said regicide, Barkstead, being Lieutenant of the Tower of London, and a great confident of the usurper, did, amongst other such confidents in the time of the usurper's sickness, desire to know where he would be buried: to which he answered, "Where he had obtained the greatest victory and glory, and as nigh the spot as could be guessed where the heat of the action was," viz. in the field at Naseby, county of Northampton, which accordingly was thus performed: At midnight, (soon after his death) being first embalmed and wrapped in a leaden coffin, he was in a hearse conveyed to the said field, the said Mr Barkstead, by order of his father, attending close to the hearse; and being come to the field, there found about the midst of it a grave dug about nine feet deep, with the green sod carefully laid on one side, and the mould on the other, in which the coffin being soon put, the grave was instantly filled up and the green sod laid exactly flat upon it, care being taken that the surplus mould was clean taken away.

Soon after, like care was taken that the said field was intirely ploughed up and sown three or four years successively with wheat.

Several other material circumstances relating to the said interment, the said Mr Barkstead relates, (too long here to be inserted) and particularly after the Restoration, his conference with the late (witty) Duke of Buckingham, &c.

Talking over this account of Barkstead's, with the Reverend Mr Sm—, of Q——, whose father had long resided in Florence as a merchant, and afterwards as minister

from King Charles the Second, and had been well acquainted with the fugitives after the Restoration, he assured me he had often heard the said account by other hands: those miscreants always boasting that they had wrecked their revenge against the father, as far as human foresight could carry it, by beheading him whilst living, and making his best friends the executioners of the utmost ignominies upon him, when dead. Asking him the particular meaning of the last sentence, he said, that Oliver and his friends apprehending the Restoration of the Stuart family, and that all imaginable disgrace, on that turn, would be put upon his body as well as memory; he contrived his own burial, as averred by Barkstead, having all the theatrical honours of a pompous funeral paid to an empty coffin, into which, afterwards, was removed the corpse of the martyr, (which, by Lord Clarendon's own account, had never truly, or certainly, been interred, and, after the Restoration, when most diligently sought after by the Earls of Southampton and Lindsey, at the command of King Charles the Second, in order to a solemn removal, could no where, in the church where he was said to have been buried, be found) that, if any sentence should be pronounced as upon his body, it might effectually fall upon that of the king. That on that order of the commons, in King Charles the Second's time, the tomb was broken down, and the body taken out of a coffin so inscribed, as mentioned in the serjeant's report, was from thence conveyed to Tyburn, and to the utmost joy and triumph of that crew of miscreants, hung publickly on the gallows, amidst an infinite crowd of spectators, almost infected with the noisomeness of the stench. The secret being only amongst that abandoned few, there was no doubt in the rest of the people, but the bodies so exposed, were the bodies they were said to be; had not some, whose curiosity had brought them nearer to the tree, observed, with horror, the remains of a countenance they little had expected there; and that on tying the cord, there was a strong seam about the neck, by which the head had been, as supposed, immediately after the decollation, fastened again to the body. This being whispered about, and the numbers that came to the dismal sight hourly increasing, notice was immediately given of the suspicion to the attending officer, who dispatched a messenger to court to acquaint them with the rumour, and the ill consequences the spreading or examining into it further might have. On which the bodies were immediately ordered down to be buried again, to prevent any infection. Certain is it they were not burnt, as in prudence, for that pretended reason, might have been expected; as well as in justice, to have shewn the utmost detestation for their crimes, and the most lasting mark of infamy they could inflict upon them. This was the account he gave. What truth there is in it, is not so certain. Many circumstances make the surmise not altogether improbable, as all those enthusiasts, to the last moments of their lives, ever gloried in the truth of it.

A modest Vindication of Oliver Cromwell from the unjust Accusations of Lieutenant-General Ludlow, in his Memoirs. Together with some Observations on the Memoirs in general. 1698.

The following has long been celebrated as a remarkably able tract. It appeared immediately upon the first publication of General Ludlow's Work, which bore the following title: "Memoirs of Edmund Ludlow Esq., Lieut.-General of the Horse, Commander in Chief of the Forces in Ireland, one of the Council of State, and a Member of the Parliament which begun the 3d of November, 1640, in two volumes. Switzerland, printed at Vevay, in the Canton of Bern, 1698." A third volume afterwards appeared, against which another tract was published, supposed by the author of the following, entitled, "Regicides no Saints."

The main object of the tract is to prove, that whatever injustice Cromwell committed in usurping the supreme government at a time of civil discord and confusion, it did not become Ludlow and his republican friends to find fault with his elevation, since it was the only means of reducing to order the confusion created by their own actions, and by the overthrow of the English constitution which had been the consequence. We may suppose the cause pleaded between Barras and Buonaparte.

The Preface.

WHERE the policy of the republicans lay to expose as they have done, their embitterment against monarchy at such a time as this, for it is to be supposed that Ludlow is now spokesman for them all, is a thing so unaccountable, that none but a scaffold can unfold it; nor is it less difficult to understand why Oliver's manes should be disturbed after a deep sleep of so many years, for no end that generally men propose to themselves upon such occasions: for if it were to revive the embers of their faction, what signifyed the rekindling a fire that wanted fuel to maintain it? If it were to defame the memory of the dead, it was a mean and unworthy act. We will, therefore, judge more favourably of them, and believe it was only to get money. For it was imagined the world would believe that such a man as Ludlow would have brought to light strange mysteries and hidden secrets never known before; but 'tis pleasant to think how they were cheated: the purchasers had nothing for their money, but the rags and tatters of old stories, worn as threadbare as an usurer's cloak. As for Ludlow, he had not a genius nor an elocution to do Oliver any great harm, especially considering the method he took. Oliver was a great man, let his detractors say what they please. We read but of two in the Roman story that raised themselves by intestine wars, Scylla and Cæsar, and I look upon Cromwell to have been as great as either. He fought with Cæsar's fortune, vanquished Pompey in England, subdued Petreius and Afranius at Dunbar and Preston, the sons of Pompey at Worcester, and Scipio and Cato in Ireland. Cæsar once fought for his life, which Cromwell never did; he never was in danger of a foil. And if he ascended by the steps that others built for him, 'tis no more than what many others had they had the same temptations would have done.

Lastly, Cæsar, by usurping the Roman commonwealth, was in many things beneficial to the publick; so is Cromwell allowed to have done as many things for the good of the English commonwealth. I do not undertake to defend all Cromwell's actions, but only such as Ludlow's book and disgusts against him assume a liberty to condemn: and then I may justly hope the world will take it for a piece of generosity to undeceive posterity, and prevent their being misguided by the false relations and reflections of passion and prejudice.

Considering how Lieutenant-General Ludlow has stated the grounds and reasons of his disgust against Oliver Cromwell, the question as to Ludlow's particular is not so much whether Oliver's actions were just and laudable or no; but whether the Lieutenant-General, who, as it plainly appears, was a person swayed by a violent bigotry to his own party, were a competent judge of the goodness or badness of those actions which he so vehemently reproaches in Cromwell. As for his own personal parts, he was never look'd upon to be a man of such an extraordinary head-piece as to render him eminently distinguish'd in the management of civil affairs: neither did his military employments ever rear him up those monuments to his glory, which others raised themselves by their prowess and conduct. And then for these memoirs of his, they likewise were writ in the decline of his years, when age had riveted into his mind those sentiments of past transactions, which younger discontents and animosities had imprinted in his thoughts, and now had made the objects of a half-crazed judgment to make such reflections on as are usually the effects of morose and sour misunderstandings. For when Blood[1] was in his prime of action, and sent over to Geneva by a party then meditating disturbance of the government, as believing Ludlow the most proper person to head and command them, that man of a quick and penetrating judgment, brought over but a very slender account of that great lieutenant-general of horse: for Blood's report, which he often upon other occasions signified to others, was, That he found him very unable for such an employment, only that he was writing a history, as he call'd it, which, as he told the colonel, would be as true as the gospel, and which in all probability were these two volumes of memoirs now lately printed. Nor indeed did the character which then he gave his little embrio of a history, shew him to be other than what the colonel spoke him. But perhaps the lieutenant-general thought it necessary for him to believe himself inspired when he was defending and writing the History of the Sacred Rump. However, as certain as these memoirs are, there is one truth more which must be added to the rest, that his truths are of very little value; such minute stories, the greatest part of them that concern himself, of his military performances in Wardour-Castle, and other parts of Wiltshire, that all of them put together would never have procured him so much as a petty ovation in old Rome. Nevertheless, he seems to have crowded them together on purpose to make out his extraordinary devotion to the Rump, and his sincerity to the cause; and from thence takes an occasion to insinuate his own high deserts, and Oliver's contempt and slight of those that were most zealous for the public good, by which he means the republican interest, the peculiar darling of his most ardent affections. Tho' all this while I can discover nothing so much through the whole contexture of these memoirs, as a continued prosecution of envy and revenge, ripen'd into invective by the sullenness of his age; yet such a sort of envy, that I could not have expected to have found in a man of Lieutenant-General Ludlow's principles, that repines more at the merits of Cromwell's actions than the glory of his trophies: as if the high commands and powers which he was deem'd worthy of, and for which he was cull'd out by those that knew not where else to supply their pressing wants of such an-

[1] The same person noted for his attempt to steal the regalia. He was a great intriguer among the anabaptists and other independents, and was supposed to be concerned in several schemes against the royal family.

other, had been the acquisitions of his ambitious industry and overreaching politics, rather then conferr'd upon him for the sensible benefits of his continued victories and successes. This seems to imply, that Lieutenant-General Ludlow was willing enough that the republican party should have enjoy'd the fruits of Cromwell's unwearied labours, no less than grandeur equal to royal and supreme authority; but in the height of his gratitude, the lieutenant-general of the horse would have had them kick'd down the instrument of their glorious fruitions, when they were out of danger. He complains that his petty skirmishes at Wardour-Castle, and in other parts of Wiltshire, where fortune was as frequently unkind as gracious to him, and suffer'd him to be taken prisoner, were never sufficiently recompenced; but he mentions with regret a donative of four or five thousand a year given to Cromwell, for the conquest of three kingdoms and saving the common cause from utter downfall. Such a sort of envy as this it was that plagued the famed Polonian Tarnovius, of whom Thuanus reports, that, after he had subdued the Moldavians and Russians, and freed his country from the frequent incursions of the Tartars, it was incredible how he was envy'd at home by those that suspected the very name of general, which he had merited by his great atchievements. But there are a great many people of the lieutenant-general's humour, whatever is above their own merit displeases them, tho' there are not many so inadvertent to shew it with so much formal sincerity as the lieutenant-general has done. When such people behold an extraordinary merit in any person, they look upon it as an object that reproaches their imperfections, an object that affronts them, and renders them so much the more contemptible. These are the true reasons that kindled the lieutenant-general's anger against Cromwell; so that, after long meditation, he at length found out the usual way of laying hold upon the common pretences of justice and equity to condemn him according to the motions of his own passion.

His desire of revenge is no less apparent and very unbecoming a soldier, whose part it is to combat his enemy living, and if he can to kill him fairly in the field; but thus to assail and quarrel with a dead man in his tomb, to stigmatize the fame of one deceased, for only having been more fortunate in the same cause which his own sword had weakly defended, is an act of malice so much the more unworthy and misbecoming a man of honour, by how much it is altogether insignificant, and gratifies only an inveterate and ignorant passion, condemn'd by all magnanimous and heroic spirits. For I can never believe that ever they who took up Cromwell's carcass, to hang it ignominiously upon the gallows, and poorly insulted over the bones of a man who had so often vanquish'd them in battle,[1] gain'd any great honour by such a pusillanimous act; much less did it become our lieutenant-general to rake into the ashes of one who had never been his enemy, but by his own confession had given him such a character in publick, as raised him to his highest preferment, however the lieutenant-general was pleased to put an ill interpretation upon it. But men of his malign temper have many times this misfortune attending them, that, while they are labouring and delving to the prejudice of others, they do themselves the greatest harm; for assuredly, when the world shall observe him so frequently interlacing his own murmurs and discontents with his disgusts against Cromwell, for only disappointing the party which he himself had so nearly espoused, never blaming him for fighting against his sovereign, nor bringing him to the block, it must be thought that his memoirs must smell very strong of the garlick of self-interest, which will very much enervate the credit of his recriminations upon Cromwell, especially in the sentiments of remoter posterity, that will judge of those

[1] A cavalier, who witnessed the exhibition of Cromwell's body upon the gallows, said to a round-head acquaintance, "Methinks, friend, thy old master stinks damnably." "True," answered the republican, "but you would have smelled worse had you been as near him when he was living." The jest was a coarse one, but the inference, as well as that of the text, is equally just and obvious.

transactions with a more sincere impartiality. And here the question may not be unseasonably put, What the aim and design of publishing these memoirs could be? For if it were to gratify the expiring remains of that same party, against whom Cromwell fought with such success, what favour can our lieutenant-general of the horse in Ireland gain among them by telling them a long story of Cromwell's dismounting the Rumponians from the saddles of their authority? who, had they been sent to the crows some years before, that party would not have repined at it: rather he merits their severest indignation for justifying and approving Cromwell all the while he contributed to the downfall of their martyr, and reproaching him for so much as offering to treat with him. On the other side, if these relations were set forth to endear the memory of the lieutenant-general to his own party, what kindness can it be to them to be revived for a company of fools that could not keep the government when they had it in their own hands, but suffer'd themselves to be baffled, outwitted, and turned out of doors by their own underling and servant, as they call'd him? but what cared the lieutenant-general and commander in chief of the forces in Ireland? For so he could but inculcate into the world a bad opinion of Cromwell and his actions, though it were to the disgrace of his own party, he values not to what censures and sarcasms he exposes the fondlings of his devotion, which, being the main drift of his memoirs, they cannot chuse but be infinitely beholding to him for it. He pretends to have had a prospect of Cromwell's ambitious designs, as he calls them, long before they were brought to perfection: to much purpose; for, had he been a true emulator of Cromwell's gallantry, he might perhaps have made a much better use of his lieutenant-general-ship and his command of the forces in Ireland in the rescue of his distress'd minions, than to sit an exiled scribbler of trivial memoirs that drop'd from his pen, more to the shame of his own darlings than the defamation of Cromwell, in those matters where the stress of his reproaches lie. And thus much for the memoirs in general.

To come to particulars: There is little worth observation in the first volume, which is no more than a succinct relation of the military transactions of those times, both in England and Ireland, for the greatest part, from the beginning of the combustions to the first Dutch war; wherein, however, he is very particular and tedious in the account which he gives of his own exploits when he was governor of Wardour-Castle and high sheriff of the county of Wilts, larded with such impertinent circumstances of a dozen pasties of his father's venison,[1] which the enemy had just baked, and would have carried away, had he not come in timely and manfully with forty horse to their rescue. He holds out Wardour-Castle in his relation almost as long as the enemy lay before it, enlarging his recital on purpose to magnify his courage, his resolution, and zeal to the cause, even to vanity. The rest of the pages, after he had deliver'd the castle and was become a prisoner of war, from 92 to 112, are all no less a panegyric upon himself: not considering that the praises which come from others are pleasing to the ear; but the elogies which a man ascribes to himself are ever most troublesome. He omits not to tell you how he took up one of his troopers behind him,[2] lest he should be taken by the pursuing enemy, which was doubtless to notify his charity and compassion. He gives you a just and exact account of the death of his cousin Gabriel Ludlow, and of the misfortunes that befell his two servants, Stent[3] and Henry Coles,[4] with a world of other minute stories of the same nature,—a plain demonstration of the narrowness of his soul and the lowness of his genius.

But the main thing remarkable in his first volume is, that, because he would make the world believe him to be a man of parts, and one that was able to balance a party, he takes great care to display his intimacy with Lieutenant-General Cromwell. "One

[1] P. 62. [2] P. 116. [3] P. 129. [4] P. 141.

morning,"[1] says he, "as I was walking with Lieutenant-General Cromwell in Sir Robert Cotton's garden, he inveigh'd bitterly against those that accompanied the Earl of Essex to his grave; saying in a familiar way to me, If thy father were alive, he would let some of them hear what they deserve; adding farther, that it was a miserable thing to serve a parliament, to whom let a man be never so faithful, if one pragmatical fellow rise up and asperse him, he shall never wipe it off. Whereas, said he, when one serves under a general, he may do as much service, and yet be free from all blame and envy."

From these words Ludlow, it seems, persuaded himself that Cromwell had, at that time, conceived the design of destroying the civil authority, and setting up himself; and that he took that opportunity of feeling his pulse, whether he were a fit instrument to be employed to those ends.

We shall not dispute the truth of this discourse, nor will we deny but that the author of the Memoirs conjecture might be as true, that Cromwell might speak the words to take the dimensions of Ludlow's capacity. But seeing there is not the least ground for the drawing any such inference as he makes from the words, we must rather believe that the lieutenant-general in Ireland's surmise was of a later date; like those who pretend to have prophesied of things after they are come to pass. Nevertheless, that Cromwell upon his canting answer had enough of him, we look upon as a thing beyond all controversy: for Cromwell was a person who never sounded the breast of any man, but he soon reached the depth of it.

However, soon after this the author of the Memoirs tells you of another great piece of familiarity between him and Cromwell.[2] For he says, the parliament being displeased with the carriage of the army, some menacing expressions fell from some of the members; upon which Cromwell took an occasion to whisper the following words in his ear: "These men will never leave till the army pull them out by the ears." But here, I am afraid the lieutenant-general in Ireland a little forgets himself; for, after he had told us but two pages before, that Cromwell, not finding him fit for his purpose, he never heard from him any more upon that point; meaning the point of destroying the civil authority, and setting up for himself. Here he introduces Cromwell altering his mind, and whispering to him a secret of far greater importance, and a much clearer demonstration of the evil design which the lieutenant-general suspected him to be meditating against the civil authority, than any he could gather from his former discourse. I must confess this does not hang well together. Cromwell did but feel the lieutenant-general's pulse before; now he begins to be downright, and to open his heart: and yet Cromwell was never taken to be a blab of his tongue. Neither is it probable that Cromwell, a person so reserved as he was, would have utter'd such a dangerous expression in the midst of his enemies, to a man whose imbecillities and bigottry he had so lately try'd. Why did not the lieutenant-general in Ireland immediately charge him with it? It would have been the best piece of service he could have done for those, who, as he says himself, were at the same time for securing Cromwell;[3] and who from hence might have taken a just occasion to prosecute their design, which would have been the best day's work that e'er they did in their lives for their own security. But Ludlow, believing that this would be objected against him, tells you,[4] that he would have resented it, if the state of his party's affairs would have permitted. A very lame excuse, and which lays the total overthrow of his party at his own door: for if this be true, that Cromwell should be so inadvertent to whisper those words into his ear, 'tis plain that Fortune put an opportunity into Ludlow's hands to have preserved his party; but he was so simple that he knew not how to make use of it. And now I appeal to all unbias'd men, whether this manifest slip be not sufficient to invalidate the

[1] P. 185. [2] P. 189. [3] P. 190. [4] P. 189.

whole testimony of the Irish lieutenant-general, and to render suspected what he shall henceforward advance in the derogation of Cromwell's proceedings, as being only the murmurs of self-interest.

But this great familiarity between the English and the Irish lieutenant-generals broke off, on the part of the author of the Memoirs, upon Cromwell's and the army's treating with the king, which Ludlow calls[1] "A driving on a bargain for the people's liberty by Oliver alone;" for it was the opinion of the author of the Memoirs, that which way soever the king had been restored, he might easily have gratified his friends, and revenged himself upon his enemies. So that the lieutenant-general in Ireland was clearly for a republick, and he knew, that so long as there was a king there could be no republick in Israel. But in regard that Cromwell's treating with the king was imputed to him as a crime by none but Ludlow's republicans, while the presbyterians and Scots did the same; and if Cromwell made any bargains with his royal prisoner for his own advantage, it was no more than what General Monk did afterwards; we shall pass from our author's memento's upon those transactions, which bring a far more general odium upon himself than upon Cromwell, while he was one of those, who, under the name of Commonwealths-men, declared,[2] "That monarchy was neither good in itself nor for the nation; that the king had broken his oath, and thereby dissolved our allegiance; and that the king, having appeal'd to the sword for the decision of the dispute, and thereby caused the effusion of a deluge of the people's blood, it seem'd to be a duty incumbent upon the representatives of the people to call him to an account, and then proceed to the establishment of an equal commonwealth, founded upon the consent of the people, as being most just, and, in all respects, most conducing to the happiness and prosperity thereof." Now, that Ludlow was one of this cabal is plain, by the same token, as he says himself,[3] that Cromwell, after he had learnt what he could of the principles and inclinations of those present at the conference, he took up a cushion, and flung it at the Irish lieutenant-general's head, and then ran down stairs. But the undaunted commander-in-chief of the forces in Ireland soon overtook him with another, which made him hasten down faster than he desired.[4] And here certainly, after such a victory as this, the Irish lieutenant-general ought to have closed his Memoirs, and set up his Hercules's pillars; for, after such an atchievement as this, no less than the putting to flight one of the most victorious captains of his age, and till then invincible, what could he expect to do greater, or that could more eternize his fame? At least, it is to be wonder'd that his party did not take from hence a prosperous omen to set so valiant a champion up in opposition to Cromwell, since they had great reason to hope, that he who had put the famous Cromwell to flight with a cushion would easily subdue him with his arms in his hand.

In the mean time this passage is of that nature as evidently demonstrates Ludlow to be as deep in the mud as Cromwell was in the mire; nay, he may rather be thought

[1] P. 223. [2] P. 238, 239. [3] P. 240.

[4] These frolics were very frequent with Cromwell, as appears from the following account of one of his solemn festivals:—"His feasts was none of the liberallest, and far from magnificence; even those two he gave the French embassador and the parliament in 1656, upon their gratulation of his Syndercombe deliverance, which last amounted not to above 1000*l.* and she saved 200*l.* of it in the banquet: for a big-bellied woman, a spectator, near Cromwell's table, upon the serving thereof with sweet-meats, desiring a few dry candies of apricocks, Colonel Pride, sitting at the same, instantly threw into her apron a conserve of wet, with both his hands, and stained it all over, when, as if that had been the sign, Oliver catches up his napkin, and throws it at Pride, he at him again, while all the table were engaged in the scuffle; the noise whereof made the members rise before the sweet-meats were set down, and, believing dinner was done, go to this pastime of gambols, and be spectators of his Highnesses frolicks. Were it worth a description, I could give the reader a just and particular account of that Ahab festival, as it was solemnized in the banquetting-house of Whitehall."—*The Court and Kitchen of Mrs Joan Cromwell*, apud *Secret History of James I. vol. II. p.* 505.

the worse of the two; for Ludlow was one of those that were already premeditating to call the king to an account, and then to alter the monarchical government of the kingdom, and set up a commonwealth. These disdain'd all manner of treaty with the king; whereas Cromwell design'd his restoration, and may be said to have acted not so much by premeditated design, as by the impulse of a driving fate, that push'd him on by degrees; by the encouragement of concurring events, and conduct of opportune prosperities. And therefore it is much to be admired that the publishers, or at least the over-viewers of these Memoirs, did not strike out this and many other passages of the same nature, before they let them see the light. Certainly they did not consult the honour of the author, to let such an antimonarchist as Ludlow appear in England with his Helvetian commonwealth meditations, barefaced, and in all his republican colours, at a time when monarchy had recovered her ancient splendour in the kingdom. His best friends most certainly could never believe that either his person or his works could be acceptable or welcome here, or procure him any esteem in a nation wholly monarchial.[1] And all this to blacken the actions of Cromwell, who was so far from being a hater of monarchy, that he at length set up for a monarch himself; chiefly too by those actions which to this day are no way displeasing to the greatest assertors of monarchy. So that if these Memoirs were publish'd to prejudice Cromwell's memory, they will miss very much of their aim, seeing that the reputation of a bad man can never receive much damage from the accusations of one that is worse than himself. And it is to be fear'd that all the recompence that Ludlow will get by these Memoirs of his, will be only the sarcasm of Juvenal:

"*Clodius accusat Mœchos, Catilina Cethegum.*"

But whatever jealousies and suspicions the republicans had of Cromwell when they thought themselves secure, yet, whenever any imminent danger threaten'd them, they flew to him for refuge: and therefore, by the confession of the author of the Memoirs himself, when Hamilton[2] was upon his march into England with twenty thousand Scots, and Langdale ready to join him with five thousand English more, several who had opposed his proceedings as arbitrary and selfish, then thought themselves obliged to strengthen his hands in a work which they call'd necessary, and assured him of all the assistance they could give him.

And now you have the lieutenant-general of the horse in Ireland making another confession, that it was not Cromwell who broke off the treaty with the king in the Isle of Wight, but that he himself was one of the main instruments that did the king that kind office. For he tells you,[3] that the treaty with the king being press'd on with more heat than ever, which he calls a visible design to render all their victories useless, he went to Sir Thomas Fairfax, and told him, that a design was driving on to betray the cause, in which so much of the people's blood had been shed; and that the king, being under restraint, would not think himself obliged to any thing he should promise under such circumstances; assuring him at the same time, that they who were most eager for the treaty, never intended that the king should be bound to the performance of his word, only they design'd to use his authority to destroy the army, which ought to be his care to prevent. Nay, that he might ascribe all the honour of this enterprize to himself and his party, to the exclusion of Cromwell, the lieutenant-general of the

[1] At the period of the Revolution, Ludlow entertained some hopes of being employed against the Irish under the new government: for this purpose he left his retreat at Vevay, in Switzerland, and came to England, where he appeared so publicly as to give offence to the Tories, so that the house of commons presented an address for his being apprehended. His Memoirs were printed at Berne in 1698, about five years after his death.

[2] P. 258. [3] P. 262, 263.

horse in Ireland tells you a story some pages before, how that Cromwell, being inclined to close with the commonwealth party, invited some of them to confer with him at his chamber, with which, when he acquainted our author of the Memoirs, he affronted him with a very rude and uncivil answer, telling him, that when he had an occasion to make use of the republicans,' he knew how to cajole them and give them good words; which put Cromwell into such a passion, that he gave him as rude a reply, that the republicans were a proud sort of people, and only considerable in their own conceits. And thus the Irish lieutenant-general would seem to insinuate, that Cromwell could be none of their cabal, but only that they made use of him as their plaintain-tree, whose spreading shade might secure them from the swelter of trouble and danger. Tho' 'tis not rational to believe but that they were influenced altogether by his counsels and directions; however, Cromwell, knowing their humour, let them alone, and play'd with them as an angler does with a pike, when he has the unruly fish fast on his hook. More than that, as our author says, he was so complaisant, as to declare at his arrival from Scotland,[2] that he was not acquainted with the design, only since it was done he was glad of it: and thus far he was still their friend, in conceding them the honour which they so ardently desired.

It farther appears, that Ludlow would seem to make himself more than ordinarily busy in this transaction. For, finding Fairfax irresolute, he presently repair'd to Ireton, to negociate their grand affair; and still he would make the world believe that he was the main instrument of the Revolution. But what was the effect of all his labour? Why, the army having wonderfully dispersed their enemies on every side, began to consider how to secure themselves and the common cause against those counsels that were carry'd on in opposition to them, and to that end drew up a declaration at St Albans, &c., and so the Irish lieutenant-general was turned out of his employment. However, tho' Cromwell and the army had laid him aside, yet still, in exaltation of himself, he would make you believe they were afraid of displeasing him. And therefore he now pretends to be a confident of Ireton's, who, upon the army's drawing towards London, in order to purge the parliament, wrote to the Irish lieutenant-general, that now he hoped they should please him; which, as he acknowledges, they did, not from any particular advantages that he expected from it, if you will believe him, but that the people of England might be preserved in their just rights from the oppression of violent men; being fully persuaded that an accommodation with the king was unsafe to the people of England, and unjust and wicked in the nature of it. And thus you see the Irish lieutenant-general writes with a two-edged pen, with one side to gash the reputation of Cromwell, and with the other to sliver the devotion of those who venerate Charles I. for a martyr.

And now we are come to the last act considerable in the first volume, wherein our author is very industrious by extenuating, to advance his own worth, to shew the continuance of his familiarity with Cromwell, and display his own ingratitude to his friend. And here it is observable in the first place, that he still made Cromwell the aggressor in his discourses with him: an evident sign that he affected to have it believed by all the world that Cromwell had a high opinion of him for his abilities, and the infallible counsels of his oracular foresight. Whereas all judicious men that read his Memoirs will find that Oliver, who was a man of a deep reach indeed, had quite another aim. For Cromwell, well knowing that his bigotry to the party had gain'd him a reputation for his fidelity to the cause among them, and that he was for that reason entrusted with all their secrets, address'd himself to the Irish lieutenant-general, as one of the weakest among them, that by sifting his thoughts, he might understand the judgment of the rest of the party, or at least of the more cunning sort.

[1] P. 241. [2] P. 272.

He tells us, that Cromwell, after the parliament had voted him general, as our author was sitting by him in the house, express'd an extraordinary sorrow to observe an alteration in his looks and carriage towards him,[1] by which he apprehended that his dear friend Ludlow had entertain'd some suspicions of him. Which address of Cromwell's might be very probable; not that it is to be thought that Cromwell cared a rush for his looks or his carriage, but it was a compliment proper to draw an easy man into the noose that better cunning was preparing for him. After this, nothing would serve Cromwell but a meeting with this same Seraskier of the Irish Spahi's, to remove the grounds of their mistakes and misapprehensions; and accordingly they met in the queen's guard-chamber, where, as he says,[2] Cromwell endeavour'd to persuade him of the necessity incumbent upon him of doing several things that appear'd extraordinary in the judgment of some men, who, in opposition to him, would bring ruin upon themselves, as well as him and the public cause. Presently Ludlow construes these extraordinary things to be Cromwell's treating with the king, and shooting to death one of the soldiers, and imprisoning the rest that mutiny'd at Ware, upon the account of that treaty, and testifies his dislike of those actions, as being done for sinister ends.[3] However, since the army and he had manifested themselves convinced of their errors by their adherence to the commonwealth, he was willing to wait for the accomplishment of those good things which he expected from him, so soon as he should return with victory home again; (for Cromwell was then going to invade Scotland,) but then he hoped that the general's[4] interests and principles would lead him to do what was most agreeable to the constitution of a commonwealth and the good of mankind. Nor did he forget his own particular grievance by the by, which was the too partial hand of the parliament and general in their distributions of gratuities, considering how he had held out Wardour Castle, and exposed his life in Wiltshire, and never got any thing for his pains. Now, if you will believe our author, nor is it material to contradict him, can any man of sense persuade himself that Cromwell, at that time a general, and a man oppress'd with ponderous affairs, would have spent his time in soothing up the humour of an empty bigot, and wasted above an hour in preaching upon the 110th Psalm,[5] to tickle his fancy, had it not been for some other reason than our author first pretended.[6] 'Tis a vanity to think it. But Cromwell was then ready to march for Scotland, and wanted a journeyman for his son Ireton in Ireland. Some he thought too nimble and cunning, some too faithless to be trusted; but here was one for his turn, stout of his

[1] P. 316. [2] P. 317.

[3] Ludlow affects to be deeply interested in the cause of the Levellers; although certainly the pretensions of those persons were altogether inconsistent not only with liberty, but even with the precarious security which might be enjoyed under a merely military government, while it maintained some internal martial discipline.

[4] P. 318. [5] P. 319.

[6] Cromwell certainly contrived to make Ludlow believe that he was in the act of projecting some such scheme of reformation as was afterwards agitated in Barebone's Parliament. "He owned my dissatisfaction with the army, whilst they were in treaty with the king, to be founded upon good reasons; and excused the execution done upon the soldier at the rendezvous, as absolutely necessary to keep things from falling into confusion, which must have ensued upon that division, if it had not been timely prevented. He professed to desire nothing more than that the government of the nation might be settled in a free and equal commonwealth, acknowledging, that there is no other probable means to keep out the old family and government from returning upon us; declaring, that he looked upon the design of the Lord in this day to be the freeing of his people from every burden; and that he was now accomplishing what was prophesied in the 110th Psalm, from the consideration of which he was often encouraged to attend the affecting those ends, spending at least an hour in the exposition of that psalm; adding to this, that it was his intention to contribute the utmost of his endeavours to make a thorough reformation of the clergy and the law. 'But,' said he, 'the sons of Zeruiah are yet too strong for us; and we cannot mention the reformation of the law, but they presently cry out, we design to destroy propriety; whereas the law, as it is now constituted, serves only to maintain the lawyers, and to encourage the rich to destroy the poor;' affirming, that Mr Coke, then justice in Ireland, by proceeding in a summary way, determined more causes in a week than Westminster-Hall in a year."—LUDLOW's *Memoirs*, I. 275. *Edin. edition.*

hands, a weak head-piece, and one that would be easily ruled, if well managed; but for want of understanding, displeased with his extraordinary proceedings, and for that reason to be fondled into a good humour again. And therefore, so soon as the general saw him mollify'd, he not only propounded the preferment he design'd him for the forementioned reasons to himself, but proposed him to the council of state, and they to the parliament, and so got him chosen in a manner in despight of his teeth; when others, far more deserving and experienced in the Irish affairs, such as the Lord Broghil and Sir Hardress Waller, solicited for the same employment at the same time. And indeed he would make you believe it was really so: for, as he says, he not only pleaded the common excuses, and goodly good-morrows of inability and unfitness, but the apparent emergencies of his estate and family. But Cromwell, who knew he had committed a proper tool into the hands of a good workman, would admit of no denial.

However, he had no sooner received his commission, but his advancement puffing him up with a high opinion of himself, he so order'd it, that his friends gave out,[1] that the opportunity was taken by the general to remove him out of the way, lest he should prove an obstruction to his designs; yet himself still standing upon his guard of modesty, and telling the world, that he could not think himself so considerable; nor could his friends believe it, whatever they published, who knew so well it was not Cromwell's way to remove, but quite to lay aside those persons whom he accounted dangerous, or looked upon as obstructors of his designs. Besides that such affected self-debasements seldom find belief with men of sense, as being incompatible with truth, in men that so often complain of unrewarded merit as our author does.

Seeing, then, that this great preferment was not forced upon him, lest he should obstruct the general's designs, as our author himself pretends, but, as he rather conceives, for his merit, it follows that the world must conclude him guilty of a great share of ingratitude, so to bespatter, as he does, with the epithets of ambitious, wicked, and impious (for in such heats and passions we shall find the lieutenant-general of the forces in Ireland in the next volume,) his only benefactor, and the very person who exalted him to the highest dignity that ever he attain'd to in this world, and higher than ever he could have expected from his own deserts. So that, whatever hard opinion the worst of Cromwell's enemies may have of him himself, they can never be so ungenerous to have any kind thoughts of the author of these Memoirs, who has so unbesecmingly trampled upon the dust of his benefactor.

It may be objected, that Ludlow had no enmity or hatred against the person of Cromwell in his private capacity, but that he condemns his public actions only, his violation of the laws, his subversion of the government, his arbitrary proceedings, his treachery to those from whom he derived all his authority, and his assuming to himself the supreme power out of the hands of those who were invested with it; and no man is bound to retaliate the benefits of an enemy of his country.

But 'tis readily answered, that this objection had been of some force indeed, if Ludlow had been in the undoubted right and Cromwell in the unquestionable wrong. But general opinion concludes that both were in the wrong; and then Ludlow's accusations and impeachments of Cromwell's actions are unjust and injurious, as being grounded upon no true foundation. For the subjects of praise or dispraise must be such as are universally taken *pro concesso*, otherwise he that condemns another for that which is not certainly evil in itself, or by the fundamental laws of the land, condemns him only upon the instigations of passion and prejudice, and makes that a crime which others at the same time may look upon as a virtue. But granting that Ludlow did firmly believe himself and his party to be in the right, yet he could not be so infatuated to his bigotry as not to see that two of the principal and most numerous judgments of the

[1] P. 303.

nation were against him; and then it was a high piece of ingratitude to lay general imputations of impious, wicked, and arbitrary, upon his friend that had been so kind to him, for acts committed against his particular party, where the controversy was so dubious, and the balance so unequal against him.

Upon these wrong foundations Ludlow proceeds, and taxes Cromwell, for that after the battle of Worcester[1] "he took upon him a more stately behaviour, chose new friends," and, after the fight, "frowned upon and dismissed those who had assisted him against the common enemy, though he knew they had deserved as much honour as himself and the standing army. And wherefore was it? Because he knew that a useful and experienced militia was more likely to obstruct than second him in his ambitious designs." But these are the murmurs of envy and prejudice; for what would our commander in chief of the forces in Ireland have had the English general have done with the militia when there was no farther use of them? He that pretended to have been always so tender of burdening the nation, would have had the general, instead of frowning upon them (for which we have only his bare word,) have kissed them man by man, and rewarded them, every one with so many points and a white loaf, like the procession boys at Whitsuntide. But he should have blamed the parliament for that omission; that was none of the general's business. He would have had the parliament to have kept them up to obstruct the general's "ambitious designs;" but to their misfortune they were not so quick-sighted as our foreseeing author of the Memoirs; and therefore they sent them home again to their wives and children, whither, no question, they were as willing to return as the general was to send them away. However, afterwards the same militia petitioned for bringing delinquents to speedy punishment; and then, I hope, they pleased our commander in chief of the Irish forces, as well as if they had kept the field. Now for the ambitious designs of Cromwell, with which our author often makes a great noise, I would fain know, What was the difference between the "ambitious design" of setting up a tyrannical republic, and the "ambitious design" of advancing a single usurpation? The latter I am sure was more consonant to the ancient government of the nation, for that restored the monarchy, though not the person; but the other would have pulled down the very fabrick and constitution of the English government. And now let him cry out as much as he pleases against our ambitious design, we will not exchange with him, because our ambitious design was better than his. Nay, they were so fond of this ambitious design of theirs, that they would have bribed the general to have let them alone, to sit still till they had reared their triumphant arch of a commonwealth. But they were such narrow-souled people, that their stingy avarice would not suffer them to offer any more than four thousand pounds a-year for the disposal of the whole revenue of the nation,[2] besides what they might have added to it. Now I appeal to any conscionable man, whether that were enough to oblige a general, who had the power of the sword in his hands, to the performance of his duty.

However, while he is thus degrading the reputation of the father-in-law, no sooner is the son-in-law dead but he extols him to the skies, and raises him a monument as high as his slender elocution will permit him; a clear argument that Lieutenant-general Ludlow was no other than a thick-sculled officer of horse, who might have entered into battle invulnerable in the forehead, so to extol as he does the son-in-law, who was the framer and contriver of many of those very designs which he calls impious and wicked, at the same time that he expends all the small shot of his indignation against the father-in-law, for putting them prudently and resolutely in execution. He applauds his departed friend for his "affection to his country, his abilities of mind, his impartial jus-

[1] P. 365. [2] P. 371

tice, and his diligence in the public service;"[1] and at length embalms his memory in a venomous effluvium against the generality of kings both past and to come; affirming that his "virtues" were a far greater honour to it than "a dormitory among the ashes of kings, who, as they governed others by their passions, so were they themselves no less governed by them."[2]

And now you shall find the sincere and upright compiler of these Memoirs in a second palpable contradiction of himself; for he tells you before, that when his friends would have perswaded him that Cromwell took the opportunity of preferring him, to remove him out of the way, lest he should prove an obstruction to his designs, he made them answer,[3] "That he could not think himself so considerable, and therefore could not concur with them in their opinion" But now upon Lambert's refusal to go over without any character into Ireland less than that of deputy, a certain speech of Mr Weaver, tending to continue him in his military command,[4] "increased Oliver's jealousy of him, that he might prove an obstruction to the design he was carrying on, to advance himself by the ruin of the commonwealth;" and therefore resolved to place Lieutenant-general Fleetwood at the head of affairs in Ireland. Before, he denied that his preferment by Oliver proceeded from any suspicion that the general had of being disturbed by him in his designs, because he knew himself incapable to do him any harm; here he affirms that the increase of that suspicion, meaning, doubtless, that suspicion which he had before denied, was the reason that Oliver resolved to place another above him. Now all men know, what never was can never increase. To salve, then, this same slip of the lieutenant-general's memory, we must believe that either Cromwell was not so cunning as the world took him to be, or else that the lieutenant-general dissembled with his best friends. But 'tis to be hoped that the lieutenant general may be pardoned for forgetting himself a little, provided he might gain the honour of being thought an antagonist capable to prevent the ambitious designs of a man so formidable as Cromwell. 'Tis the nature of such aspirers as the lieutenant-general to be, like bladders, sometimes shrivel'd up with self-denial, and by and bye swoln up with the wind of vanity and self-conceit; or otherwise, like prospective glasses, that lessen at one end and magnify at the other.

But it seems Cromwell was too nimble for him, and soon rid himself from all his fears

[1] P. 384.

[2] "Some of General Cromwell's relations, who were not ignorant of his vast designs now on foot, caused the body of the Lord Deputy Ireton to be transported into England, and solemnly interred at Westminster, in a magnificent monument, at the public charge; who, if he could have foreseen what was done by them, would certainly have made it his desire that his body might have found a grave where his soul left it, so much did he despise those pompous and expensive vanities, having erected for himself a more glorious monument in the hearts of good men, by his affection to his country, his abilities of mind, his impartial justice, his diligence in the public service, and his other virtues, which were a far greater honour to his memory than a dormitory amongst the ashes of kings, who, for the most part, as they governed others by their passions, so were they themselves as much governed by them."—LUDLOW, *ut supra*, I. 331.

Sir Philip Warwick, on the other hand, remarks, that Ireton, who died at the siege of Limerick, of a pestilential fever, expired with the dreadful exclamation, "I will have more blood, blood, blood!"—*Memoirs*, p. 354.

[3] P. 303.

[4] "In the management of this affair, Mr Weaver, who was one of the commissioners of Ireland, but then at London, and sitting in parliament, was very active, to the great discontent of General Cromwell, who, endeavouring to persuade the parliament that the army in Ireland would not be satisfied unless their commander-in-chief came over as deputy, Mr Weaver assured them that, upon his knowledge, all the sober people of Ireland, and the whole army there, except a few factious persons, were not only well satisfied with their present government, both civil and military, of that nation, but also with the governors who managed the same. This discourse of Mr Weaver, tending to persuade the parliament to continue me in the military command, increased the jealousy which General Cromwell had conceived of me, that I might prove an obstruction to the design he was carrying on to advance himself by the ruin of the commonwealth; and therefore, since Major-general Lambert refused to go over with any character less than that of deputy, he resolved by any means to place Lieutenant-general Fleetwood at the head of affairs in Ireland."—LUDLOW, *ut supra*, I. 356.

[5] P. 414.

of the lieutenant-general's obstructing his designs, which the disappointed lieutenant-general loudly bemoans. For upon Fleetwood's arrival in Ireland he fetches a deep sigh, and with the cobler cries out, *Perdidi operam*, finding all his[1] "cares and fatigues recompenced only with envy and hatred," which was, no doubt, the reason that afterwards he resolved to repay Cromwell in his own coin. Nevertheless, as much rejected as he was, he will not forego the high opinion he always had of himself; and, because he had no other witnesses, cunningly brings in envy and hatred to be the testimonies of his great performances; for envy and hatred among great personages never attend little matters. I must confess he tells you of many things he did in Ireland; among the rest,[2] how he smoaked a party of the Irish to death in a hollow rock; and how, out of his great ingenuity, perceiving the "smoke that went into the cavity of the rock came out again at other crevices," he, as lieutenant-general of the horse in Ireland, caused those places to be closely stopped, and another smother to be made; and then conceiving the work to be done, by the same authority as before, he sent in his men, armed with back, breast, and head-piece, to fetch out the dead people.[3] But this was no such mighty act to deserve the hatred and envy of any man; and therefore, seeing the lieutenant-general gives us no account who they were that envy'd and hated him; and for that we see no ground to believe it, more especially if he means Cromwell to be one (for men of Cromwell's temper never hate or envy those that they know can do them no harm,) unless the lieutenant-general mistook contempt and slight for envy and hatred, we can only believe it to be a stratagem of the lieutenant-general himself, to insinuate the grandeur of his own achievements and merits, which others either could not, or were unwilling to do to that degree as he was desirous they should. More than this, it is observable, that, notwithstanding all the great actions in Ireland, which the lieutenant-general assumes to himself to have so gloriously performed, Whitlock (so particular in relating the actions of other great officers in Ireland, as Broghil, Waller, Jones, Axtel, Zanchy, &c.,) makes no mention at all of the lieutenant-general, till after Ireton's death; and then he says no more of him but that he was appointed to command the forces in Ireland till the farther pleasure of the parliament was known.

This is the substance of the first volume of Ludlow's Memoirs, so far as they relate to his inconsiderable quarrels and dissatisfactions with Cromwell's proceedings, which

[1] P. 425. [2] P. 423.

[3] "From hence I went to visit the garrison of Dundalk; and being upon my return, I found a party of the enemy retired within a hollow rock, which was discovered by one of ours, who saw five or six men of them standing before a narrow passage at the mouth of the cave. The rock was so thick that we thought it impossible to dig it down upon them, and therefore resolved to try to reduce them by smoke. After some of our men had spent most part of the day in endeavouring to smother those within by fire placed at the mouth of the cave, they withdrew the fire; and the next morning, supposing the Irish to be made incapable of resistance by the smoke, some of them, with a candle before them, crawled into the rock. One of the enemy, who lay at the middle of the entrance, fired his pistol, and shot the first of our men in the head, by whose loss we found that the smoke had not taken the desired effect; but, seeing no other way to reduce them, I caused the trial to be repeated, and upon examination found, that though a great smoke went into the cavity of the rock, yet it came out again at other crevices, upon which I ordered those places to be closely stopped, and another smother made. About an hour and a half after this, one of them was heard to groan very strongly, and afterwards more weakly, whereby we presumed that the work was done, yet the fire was continued till about midnight, and then taken away, that the place might be cool enough for ours to enter the next morning, at which time some went in, armed with back, breast, and head-piece, to prevent such another accident as fell out at their first attempt; but they had not gone above six yards, before they found the man that had been heard to groan, who was the same that had killed one of our men with his pistol, and who resolving not to quit his post, had been, upon stopping the holes of the rock, choaked by the smoke. Our soldiers put a rope about his neck, and drew him out. The passage being cleared, they entered, and having put about fifteen to the sword, brought four or five out alive, with the priest's robes, a crucifix, chalice, and other furniture of that kind. Those within preserved themselves by laying their heads close to a water that ran through the rock. We found two rooms in the place, one of which was large enough to turn a pike; and having filled the mouth of it with large stones, we quitted it, and marched to Castle-Blaney."—*Memoirs of* Ludlow, Edin. 1751. I. 363.

may be reduced to three particular heads: his private treaty with the king, his suspected designs to ruin the republican party, and set up for himself, and his neglect of recompencing the lieutenant-general according to his merits; which are accusations so far from doing any injury to Oliver's memory, that they rather ingratiate him with the most considerable part of the nation, so that, as I have already once or twice repeated, I admire to what purpose these Memoirs were printed in England, unless it were to expose the author to be a person that hated monarchy, and consequently the present government, with such an inveterate abomination, that it may be questioned whether he had any kindness for Adam, because he reigned single in Paradise. They might, indeed, have served to shew his gratitude to the canton of Bern, to which purpose they were written; but to print them so unseasonably here in England, with a noisy title, and himself standing in his ornamental iron at the entrance into the booth of his Memoirs,[1] like a charlatan and three trumpeters solus in a Bartlemew-fair balcony, was an act that wanted so much consideration as ought to have preceded their being thus sent to farce it abroad in the world. Besides that, when you expect a gaudy shew, there is nothing to be seen but relations of things long since *lippis et tonsoribus nota*, and already recited by others with much clearer exactness and a more pertinent fidelity.

Nevertheless, the gentleman-usher of these precious Memoirs applauds his author for a person that served his country with that indefatigable care, diligence, and fidelity, as no man more; which he does upon a false notion of Ludlow's services, and for want of well distinguishing between the nature of public services; for it is one thing for a man to serve his country, another thing to serve a particular party. Now I do not find by the preamble, that he ever did any service for his country, otherwise than by expending his care and diligence for the service of the republican party (which, by the way, the writer of the preamble calls his "going through innumerable hazards for the liberties of England,") for he never acted under Cromwell's single power, and he hated royalists and presbyterians both alike. But whether he served his country in serving the particular party of the republicans, is a question that lies wholly at the writer of the preamble's door to decide. I am apt to believe, if he will be so adventurous to assert it, he will meet with champions enough that will undertake him. Certain it is, there were some, and those no mean persons, nor few in number, among whom there were some judges of the land, who never believed the writer of the preamble, that ever Ludlow did any service for his country; and therefore, though the lieutenant-general so frequently complains that he could never be gratified according to his merits, "They would have recompensed him to the full of his deserts in fighting for his country, had the lieutenant-general not fled from his reward."[2] And so we proceed to his second volume.

VOLUME II.

The second volume begins very tartly and roundly indeed, and displaying a kind of Billinsgate passion against Cromwell, for dissolving that part of the parliament, which the people afterwards in derision call'd the Rump; and which the lieutenant-general[3] calls a villainous attempt, and a barbarous usage of the parliament; which they who well consider will find to be the language only of prejudice and self-interest, and in the lieutenant-general to be no way justifiable. 'Tis true, his charge against Cromwell is very high, and very plausible; but whether the accusations will fix a real guilt upon

[1] Ludlow's portrait in armour was prefixed to his Memoirs.

[2] Alluding to the address of the house of commons to have him apprehended as a regicide, when he ventured to London after the revolution.

[3] P. 458, 461.

the party accused is the question. For this is an axiom in logic, that nothing is to be admitted for truth but what is acknowledged to be certainly such: that is to say, all precipitancy and prejudice in judging is to be avoided; and nothing is farther to be absolutely concluded, than as it is so clearly and distinctly evident to reason, that it can no way be call'd in question.

Now there is no-body will deny but that Cromwell turn'd out the Rump; yet there are thousands will deny that he did amiss in doing it. But to shew how partiality blinds the reason of some people, I would fain know where lay the difference between purging the house, and turning out the members that were treating with the king in the Isle of Wight, and dissolving the Republican Rump: For Oliver was as much a servant to the one as the other. Yet the lieutenant-general could approve the first act, whatever exclamations he makes against the latter. Then Oliver was faithful and an assertor, now a perfidious invader of the liberties of the people. Neither did Cromwell owe them that obedience which the lieutenant-general pretends: He was a member of the same body, equal in authority, superior in power, and fought for himself as well as for them; and if they aided him with money and their counsels, he assisted them with his counsels and his sword. They sat under his protection, and owed their grandeur to his victories; and he might be said to have given them their being in a political sense; and to support that being of theirs, he ran all the hazards abroad, while they enjoyed the fruits of his labours at home. Their power was only precarious, and while they ruled by laws only of his and their own making, he was not circumscribed to any limits of obedience to acts and ordinances made only for present conveniences; which in an unstable government there may be as great a necessity to alter or repeal upon new emergencies.

In this confusion of popular anarchy, Cromwell resolved to be govern'd by the only standing law in the kingdom at that time, which was the law of self-preservation: And the ejected republicans may thank the Earl of Essex, when general, and the Scotch commissioners, for teaching him that lesson. Mr Whitlock, in his Memoirs, tells the story thus:

"Colonel Cromwell being made lieutenant-general of Manchester's army, gave such an account of the miscarriages of the parliament's forces before Donnington Castle, as made great impressions of jealousy in the Earl of Essex's breast, then captain-general for the parliament; insomuch that he was advised to put his strength to rid Cromwell out of the way; and the means to effect it was supposed to be by the Scotch commissioners, who were not well pleased with Cromwell for certain words which he had spoken, as they apprehended derogatory to the honour of their nation. So early did Cromwell begin to be both eminent and formidable.

"One evening Mainard and Whitlock were summon'd to Essex-House, whither they went to attend the lord-general, not knowing the occasion of their being sent for, and found already come before them the Scotch commissioners, Mr Hollis, Sir Philip Stapleton, Sir John Meyrick, and some others. After the usual compliments, the lord-general addressing himself to Mainard and Whitlock, told them he had sent for them upon a special occasion, to have their advice and counsel in a matter of great importance, wherein the Lords Commissioners of Scotland were concerned, as well for their own, as the state of England; and refer'd himself to the Lord Chancellor of Scotland, as a much better orator than himself, to acquaint them with the business.

"Upon which the lord chancellor, after he had assured them of the good opinion that himself and his brethren had of their worth and abilities, "You ken vary weel," said he, "that Lieutenant-General Cromwell is no friend of ours, and since the advance of our army into England he has used all under-hand and cunning means to take off from our honour and merit of this kingdom: Therefore it is thought requisite for us, and for the carrying on of the cause of the twa realms, that this obstacle or *remora* may be re-

moved out of the way, whom otherwise we foresee will be no small impediment to us, and the gude design we have undertaken.

"He not only is no friend to us and the government of our kirk, but he is also no well-willer to his excellency, whom we have all cause to love and honour: So that if he be permitted to go on in his way, it may, I fear, endanger the whole business; therefore we are to advise of some course to be taken for prevention of that mischief.

"You ken vary weel the accord betwixt the two kingdoms, and the union between the two kingdoms by the solemn league and covenant, and if any be an incendiary between the two nations, how he is to be proceeded against. Now the matter is, wherein we desire your opinions, what you take the meaning of this word incendiary to be, and whether the Lieutenant-General Cromwell be not sike an incendiary as is meant thereby; and whilke way wud be best to proceed against him if he be proved sike an incendiary, and that will clip his wings from soaring to the prejudice of our cause.

"Now you may ken that by our laws in Scotland we clepe him an incendiary wha kindleth coals of contention, and raiseth differences in the state to the public damage, and he is *tanquam publicus hostis patriæ*. Whether your law be the same or not, you ken best who are mickle learned therein; and therefore, with the favour of his excellency, we desire your judgments in these points."

Whitlock reply'd, "That the sense of the word incendiary was the same in England as his lordship had express'd it to be by the law of Scotland, One that raiseth the fire of contention in a state, or that kindles the burning hot flames of contention; but whether Lieutenant-General Cromwell were such an incendiary between the two kingdoms could not be known but by proof of his particular words and actions tending to the kindling of such a fire of contention between the two nations.

"That it was not for the Lord General and the Lords Commissioners of Scotland to appear in any accusation of this nature, unless they were certain it could be made out by sufficient proofs.

"That they were to consider the condition, parts, and interest of the person who was to be accused as an incendiary.

"That Lieutenant-General Cromwell was a gentleman of quick and subtle parts, and one who had gain'd no small interest in the house of commons, and wanted not friends in the house of peers, nor abilities in himself to manage his own defence to the best advantage.

"And therefore, since neither his excellency nor the lord chancellor had mention'd any particulars, nor that he knew of any by his own private observations, that could amount to a clear proof that would satisfy the house of commons that Lieutenant-General Cromwell was an incendiary, his advice was, That they should desist from any further prosecution of this matter till they were certain of evident proofs to make out their accusation."

Maynard gave the same answer, only vary'd in words. However, Mr Hollis, Sir Philip Stapleton, and some others, spoke smartly to the business, and mentioning some particular passages and words of Cromwell, tending to prove him an incendiary, would willingly have been upon the accusation. But the Scots commissioners were not so forward to adventure upon it, for the reasons alledged by Maynard and Whitlock. Nevertheless, this business was not carry'd so privately but that Cromwell was inform'd of it: Which Mr Whitlock gathers from hence, That though Cromwell took no notice of any particular passages at this conference, yet he seem'd more kind to Whitlock and Maynard than formerly he had been, and carry'd on his design more actively of making way for his own advancement.[1]

[1] This passage is abridged from Whitelocke's Memorials, p. 111. From the pains he takes to retain the Scottish dialect of the Lord Chancellor of Scotland, and which by the way he has admirably preserved, it may

From hence it is apparent, that there was a party in the parliament that bore an early spleen against Cromwell, and fain would have nipt him in the bud, but his eminent service at Naseby procuring him to be appointed and continued lieutenant-general under Fairfax, and the continual successes that attended him from that time forward, set him above their machinations. Nevertheless, they did not erase out of his breast the remembrance of the kindnesses they would have done him; nor did their flatteries of his prosperity make him the more neglectful of standing upon his guard. And it was as warrantable for Cromwell to secure himself from the contrivances of his enemies in a shatter'd parliament, of which he had so long before such timely notice, as it was for them to seek his ruin. For they were not his sovereigns, but his equals. This I urge to throw off that common aspersion from Cromwell, That he sought his own advancement from the beginning, more than by enlarging his fortune by acts of prowess, and joining with others to procure the general good of the kingdom. For Baxter confesses, [1] that at first he took extream care to get as many religious men into the regiment that was to serve immediately under him, as possibly he could; who being people of more understanding than common soldiers, were the more apprehensive of the importance and consequence of the war, and being conscious that they fought for the public felicity, became the more valiant; and he instances Airs, Berry, Desborough, and the rest of that troop, that they proved so valiant, that, as far as he could learn, they never turn'd their backs to an enemy. He adds farther, that at Cromwell's first making choice of such men, it was the very esteem and love of religious men that principally moved him; and the avoiding of those disorders, mutinies, plunderings, and grievances of the country, which debauch'd men in armies are usually guilty of. Now it is not easy to believe, that a man of such principles should be guilty of that

be easily guessed whether the arguments so conveyed made a serious or ludicrous impression upon Whitelocke.

[1] Cromwell himself, in one of his speeches to parliament, and also in his conference at Whitehall, gives the same account of the principle he followed in furnishing his regiment of horse. See page 368. Baxter's testimony is to the same purpose:—"If, after so many others, I may speak my opinion of him, I think, that, having been a prodigal in his youth, and afterwards changed to a zealous religiousness, he meant honestly in the main, and was pious and conscionable in the main course of his life, till prosperity and success corrupted him: That at his first entrance into the wars, being but a captain of horse, he had a special care to get religious men into his troop: These men were of greater understanding than common soldiers, and therefore were more apprehensive of the importance and consequence of the wars, and making not money, but that which they took for the public felicity to be their end, they were the more engaged to be valiant; for he that maketh money his end, doth esteem his life above his pay, and therefore is like enough to save it by flight when danger comes, if possibly he can: But he that maketh the felicity of church and state his end esteemeth it above his life, and therefore will the sooner lay down his life for it. And men of parts and understanding know how to manage their business, and know that flying is the surest way to death, and that standing to it is the likeliest way to escape; there being many usually that fall in flight for one that falleth in valiant fight. These things it's probable Cromwell understood; and that none would be such engaged valiant men as the religious: But yet I conjecture, that at his first choosing such men into his troop, it was the very esteem and love of religious men that principally moved him, and the avoiding of those disorders, mutinies, plunderings, and grievances of the country, which deboist men in armies are commonly guilty of: By this means he indeed sped better than he expected; Aires, Desborough, Berry, Evanson, and the rest of that troop did prove so valiant, that, as far as I could learn, they never once ran away before an enemy. Hereupon he got a commission to take some care of the associated counties, where he brought this troop into a double regiment of fourteen full troops; and all these as full of religious men as he could get: These having more than ordinary wit and resolution, had more than ordinary success; first in Lincolnshire, and afterwards in the Earl of Manchester's army at York fight: With their successes, the hearts both of captain and soldiers secretly rise, both in pride and expectation: And the familiarity of many honest men (anabaptists, antinomians, &c.) withall began quickly to corrupt their judgments. Hereupon Cromwell's general religious zeal giveth way to the power of that ambition, which still increaseth as his successes do increase: Both piety and ambition concurred in his countenancing of all that he thought godly, of what sect soever; piety pleadeth for them as godly, and charity as men; and ambition secretly telleth him what use he might make of them. He meaneth well in all this at the beginning, and thinketh he doth all for the safety of the godly and the public good, but not without an eye to himself."—*The Life of Richard Baxter, Lond.*, 1696, *fol. p.* 98.

inordinate ambition which his maligners lay to his charge. But when he found that his prosperous atchievements raised him enemies on every side; that they who were most beholding to his victorious successes, combined with the greatest animosity to his destruction, 'twas time for him then to look about him, and to oppose their undermining devices with countermines of the same nature. Nor does it appear by any proof that carries authority with it, that he pretended to single greatness till he was forced to it for his own safety. It is agreed by the author of the Memoirs himself, that Cromwell offer'd more candid and easy conditions to the king than the presbyterian party did; which if the king had accepted (and it does not appear to be Cromwell's fault that he did not) Cromwell himself had then put a stop to all his single advancement; whereas he would surely have taken another course, had he at that time meditated single sovereignty; but the king, who was design'd by fate to be a victim to evil counsel, refused those offers, trusting to vainer hopes. On the other side, it was manifestly apparent that the presbyterian party aim'd at nothing more than their own advancement by their selling the bishops lands, and when they came to treat with the king, by their stiffly adhering to their proposition for the abolishing of episcopacy, knowing there could be no bishops without maintenance, and that then they must be the paramount clergy of the kingdom. But then, indeed, Cromwell perceiving that it was not safe to rely upon the king, nor willing to truckle under a party that were treating for their own advancement upon his ruins, 'tis rational to believe, that from that time forward he began to look upon the king as a conquer'd prince, and that none could better supply his room than the person who had subdued him.

The motives and provocations that incited Cromwell to dissolve the Rump were somewhat different; for, before the presbyterian party was expell'd, though the royal party had deserted the house, there was a number still left sufficient to take upon them the name of a parliament; and there was some face of that authority which the law of the land had invested in the representatives of the people; besides that, the king had acknowledged them to be a parliament upon the treaty at Uxbridge. But they being ejected, the small remainder was only a junto, which derived their authority from the power of the sword; their votes and acts were no farther laws than the sword constrain'd obedience to them; they were only continued in their seats by Cromwell for a present convenience; and therefore, as they were only countenanced and supported by the power of the sword, which was then in the hands of Cromwell, they were to be look'd upon as no other than a party set up by him, and owing their authority to him. So that when they began to extend that authority beyond its limits, and assumed to themselves a democratical power in opposition to him from whom they derived their subsistence, they were rather rebells to Cromwell than Cromwell to them; and as he set them up in hopes that they might be serviceable to him for the good of the nation, he might pull them down again when he saw them exceeding their commission. Now whether the design, for the bringing of which to pass Cromwell fix'd them in their seats *pro tempore*, were good or bad, is not the question; but whether they who were no lawful authority, but only acted under the safeguard of another unlawful authority, had power to make any act good or evil, as it suited with their interest or opposed their designs. For if they had not, which is most probable, Cromwell is never a jot the more impious, the more perjured, the more a villain, because they call him so. For being a junto of his own ereeting, upon such and such considerations, he might, without any fear of those reproaches, send them a grazing when he found them deviating from those ends for which he had suffer'd them to keep their places. Now it is plain that Cromwell never intended they should sit long, or thought them able to accomplish his main design, which was to settle the nation. For Whitlock in his Me-

morials gives you an account, how that after the battle of Worcester Cromwell desired a meeting with several members of parliament, and some chief officers of the army at the speaker's house, where, in the presence of a great many that met, he proposed to them, That since the old king was dead, and his son defeated, he held it necessary to come to a settlement of the nation, and therefore he had desired that meeting to consider and advise what was fit to be done.

Whitlock offer'd, whether it were not requisite to be understood in the first place, in what way such a settlement was desired, whether of an absolute republic, or of any mixture of monarchy.

Cromwell concur'd with Whitlock, that his meaning was that it should be consider'd whether a republic or a mix'd monarch would be best to be settled; and if any thing monarchical, then in whom that power to be placed.

Sir Thomas Widdrington was of opinion, that a mix'd monarchical government was the most suitable to the laws and people of the nation; and if monarchical, that it would be most just to place it in one of the sons of the late king.

Fleetwood thought that the question, whether a mix'd monarchy or a republic, would not be very easily determined. But,

St John, the chief justice, was of the same opinion with Sir Thomas Widdrington, and so was the speaker; but they did not mention where it was proper to be placed.

Widdrington again proposed the Duke of Gloucester, and Whitlock propounded that a day might be fix'd for the king's eldest son and the Duke of York to come into the parliament, that so, upon such terms as should be thought fit and agreeable, both to the civil and spiritual liberties, a settlement might be made with them.

Cromwell reply'd, that it would be a business of more than ordinary difficulty; however, he really thought, that if it could be done with safety to the preservation of the English rights, a settlement with something of monarchical power in it would be very effectual.

In short, the soldiers were against any thing of monarchy, as Desborough and Whalley, who were present at the meeting; but the lawyers were for a mix'd monarchy.

Hence it is apparent, that the dissolution of the Rump, in order to the setting up a government with a mixture of monarchy in it, had a truer and more noble aim, as being more conformable to the laws of the land than the continuance of a republic.

The point is not (here) whether Cromwell did ill in setting up himself, but whether he did amiss in setting up himself above the republican Rump; and for that, he has of his side the opinions of the greatest and most learned lawyers of that time, and Whitlocke testifies that St John, the then chief justice, with many others, advised him to dissolve the Rump. So that Ludlow's outcries of villainous, wicked, and perfidious, are false and scandalous, as being grounded upon ignorance, passion, and partiality. He could not be taxed with wickedness or villainy, because he pursued the constitutions of the nation; at least much closer than they who had design'd the subversion of the national government. Nor could he be charged with perfidiousness, because he never promised to perpetuate their sessions, but had often desired them to dissolve themselves, which they foreslowing by a thousand cunning delays, he took the liberty to dismiss them by force.

But how highly soever Ludlow was offended with the dissolution of his republican brethren, many others were not of his opinion. For Whitlock tells you that their dissolution caused much rejoicing among the king's party, and that among the parliament's party, several pastors of churches and their congregations were pleased at it; and that several acknowledgements of the justice of that action were sent up to Cromwell and his council of officers, not only from several parties of the army, but from others in various countries, with engagements to stand by him. And Baxter tells you, that no sort

of people express'd any great offence at their being cast out, though he closes his advantagious testimonial of the general approbation of the action with a lash of his satyrical pen upon the score of his old friends, the exterminated members; for Mr Baxter does not appear in his descants upon Cromwell to be a man without gall. However, he serves as a good witness against Lieutenant-General Ludlow, to shew that Oliver's dissolution of the Rump was no such crime as he proclaims it to be.[1] And thus it is observable how strangely falshood is imposed upon the world in the various dresses and disguises of truth. If you will believe the affirmations of self-interest and partiality, there are as many truths as there are waistcoats of the Virgin Mary among the papists; at least, there is no champion of a party but has his wardrobe of pretences, and dresses of justice, piety, virtue, and whatever is revear'd and esteemed among men, to prank and trick up their minion falshood, that it shall not be possible to distinguish her from truth; nor are they at the same time without as many magazines of deformed vizors and disguises to render truth the most odious and monstrous of all things, and ungrateful to mankind. One cries up this for truth, another asserts for truth that which is diametrically opposite, a third steps in and charges them both for impostors: and the generality of men, too lazy to examine which is truth and which is falshood, refer themselves to him, who having got something of a name in the world, either for his learning or piety, or it may be sometimes for both, has the greatest authority over their persuasion.

This is Cromwell's case; of whom it was said, that no man was higher extoll'd, no man more basely vilified, no man worse, no man better spoken of, as interest led the judgments of men. The presbyterians, with Baxter at their head, affirm it was an act of rebellion, perjury, perfidiousness, and impudence, to turn so many of their members out of the house at once: the republican party say, no; that was no crime at all, but it was a villainous, barbarous, perfidious act to dissolve the Rump. Whence it is naturally concluded, that until both parties can make out their diametrical infallibility in these points, Cromwell's reputation stands irreproachable, as to those acts with which they charge him to have committed against themselves. Add to this, that being all parties and accomplices, they were no competent judges of the justice or injustice of their own cause, consequently neither of Cromwell's proceedings against themselves. So that, having no right to judge, they had no power to condemn.

"*Quis tulerit Gracchos de seditione querentes?*"

And now we come to the accomplishment of the soothsayings and conjectures of our Irish lieutenant-general, that after all was done, Cromwell would certainly fool the Rump and set up for himself. And here, with a painter-stainer's brush of his over-weaning malice, he strives to render Oliver as deformed as possibly he can, to the end he may make his Rump appear the more sleek and immaculate. To this intent, his main pretence is violent usurpation, but his chief reasons, which he displays too inconsiderately to the world, were his own discontents, the abatement of his pay, and his being at length turn'd quite out of commission: "For," says he,[2] "the pay of some of the officers of the army was also reduced, among whom it fell heavier on me than any other; for I was obliged to keep a more plentful table than the rest, and twenty horses ontinually in my stable ready for service." And indeed it would have vex'd a saint, to have been thrown down, like Lucifer, from so much glory all of a sudden. Then for his commission, he himself acknowledges[3] that it was not taken from him, till he was dis-

[1] "And so ended," says honest Baxter, "the government of the Rump, and no sort of people expressed any offence that they were cast out, though all, save the army and sectaries, held him to be a traitor that did it."—*Life, p.* 70.

[2] P. 465. [3] P. 522, &c.

cover'd to be a disperser of petitions and memento's against the person who procured it for him, and in whose name it was given. And here his pretended tender conscience being prick'd and goaded with a hundred scruples and niceties, 'tis very pleasant to see how it caper'd and curvetted upon the demand of that commission. However, it is apparent, that he was used with a world of civility more than he deserved, and that great care was taken to recover him from those pious frenzies and vagaries, with which his celestial bigottry was led astray.

As for his charge of usurpation and tyranny upon Oliver, we must take him for a person abstracted from all other parties but his own, and deal with him as one that boasted that he had subscribed the engagement to be true to the Rump, without king or house of lords, with his hand and his heart; and then we must affirm, that he has gone all along upon a wrong ground, seeing there could be no greater proof of usurpation, than that very engagement which the lieutenant-general sign'd with his hand and his heart. For it was a demand of fealty by those who had no legal authority to require it, and a perfect invasion upon the prerogatives of the king and the lords, and erecting a spurious commonwealth upon their ruins. So that the confidence of the lieutenant general is greatly to be wonder'd at; who, being an accomplice in so signal a usurpation, durst adventure to call Cromwell a usurper, who did no more than what they had done before him with much more injustice and illegality. For the lieutenant and his copartners usurp'd upon the fundamental constitutions of the nation; whereas, Oliver was only a usurper upon usurpers, if it might be called a usurpation. However, to make it out, the lieutenant-general conjectures this and surmises that, according as his own idle fancy prompted him; and would make the world believe that he knew Cromwell's thoughts, and all the reasons of his actions, which he takes so much care to bespatter with his fond reflections and interpretations, to the best advantage of his undefiled Rump. Whereas there be some who reckon that action of Cromwell's among the most glorious of his performances, and which came the nearest to one of the most famous atchievements of Hercules himself, to cut off that many-headed Geryon of anarchy, folly, and tyranny at one blow.

But, notwithstanding all his stroaking and clapping his republican Rump, there are others that write with more impartiality, who give us a better account of things, and from those bare relations of matters of fact, we find that Cromwell always advised with the greatest lawyers in the nation before he put his determinations in execution. In an accidental conference between Cromwell and Whitlock, the latter agreed with the former, that Ludlow's spottless Rumponians were a proud, ambitious, and self-seeking sort of people, ingrossing all places of honour and profit to themselves and their friends, and daily breaking out into new and violent parties and factions, that they were delayers of business, and men that designed to perpetuate the power in their own hands. So that it was then concluded between them, that there ought to be some authority and power so full and so high, as might restrain their exorbitances, and reduce things to better order.[1]

[1] Whitelock, however, left his testimony of abhorrence of the violence used by Cromwell in dissolving the parliament, from which step he had previously dissuaded him, and even declined himself to be one of the council of state which it was proposed to establish in their room.

"April 20, 1653. Yesterday there having been a great meeting at Cromwell's lodgings in Whitehall, of parliament men and several officers of the army, sent to by Cromwell to be there, and a large discourse and debate having been amongst them, touching some expedient to be found out for the present carrying on of the government of the commonwealth, and putting a period to the present parliament.

"It was offered by divers as a most dangerous thing to dissolve the present parliament and to set up any other government, and that it would neither be warrantable in conscience or wisdom so to do; yet none of them expressed themselves so freely to that purpose as Sir Tho. Widdrington and Whitlock then did.

"Of the other opinion, as to putting a period forthwith to this parliament, St John was one of the chief, and many more with him, and generally all the officers of the army, who stuck close in this likewise to their general.

Certainly these were inducements for Cromwell to dissolve the Rump, much more just and honest, and far more beneficial to the nation than those figments which Ludlow charges him withal. Had there been those by-ends, and that ambition which Ludlow would pretend to discover in him, it was well known, and Whitlock put him in mind at the same conference, that he had all the kingly power in him already; that of the militia, as he was general; that as to the nomination of civil officers, those whom he recommended were very seldom refused; and that though he had not a negative vote in passing the laws, yet what he disliked was not easily to be carried, and that it was in his power to dispose of the public money: then as to foreign affairs, though the ceremonial application were made to the parliament, yet the expectation of good or bad successs was from himself; and particular solicitations of foreign ministers were made only to him.

But Cromwell, well knowing that the power of a king was universally understood and reverenced by the people of this nation, and that a single person, under what title soever, was more agreeable to the constitutions of the kingdom, in all probability believed that it would be much better to destroy the republican hydra past recovery, than to be guilty of so many foreseen miscarriages, by suffering the unruly monster any longer to domineer under the protection of his power. For certain it is, that whatever the nation had suffered, though it had pass'd in their names, would have been all laid upon his shoulders. And by the event it may be justly thought, that these were the real motives that sway'd Oliver to assume a single title, rather than the fictions of Ludlow's malice and discontent. However, Ludlow pretends, that his Rump was dock'd in the full career of their good intentions for the good of the nation, to which some credit might have been given had some indifferent person spoke it: but as the praises and encomiums of a bigot gain little belief, so neither are his defamations and reproaches any more to be regarded among men of sense. More than this, Cicero will not allow that any man should accuse another for that which he is as much or more guilty of himself. Now it is apparent that Oliver, as has been said, so far as concerned the Rump, was much less a usurper than Ludlow and his party, who had usurped all the authority in the kingdom to themselves, and were going about to subvert the fundamental government of the nation; whereas Oliver did but dissolve a conventicle of a parliament, out

"And the better to make way for themselves and their ambitious design of advancing them to the civil government, as well as they were in the military power.

"They and their party declared their opinions, that it was necessary the same should be done one way or other, and the members of parliament not permitted to prolong their own power.

"At which expression, Cromwell seemed to reprove some of them; and this conference lasted till late at night, when Widdrington and Whitlock went home weary, and troubled to see the indiscretion and ingratitude of those men, and the way they designed to ruin themselves.

"Therefore, these came early again this morning, according to appointment, to Cromwell's lodging, where there were but few parliament men, and a few officers of the army.

"A point was again stirred which had been debated the last night, whether 40 persons, or about that number of parliament men and officers of the army, should be nominated by the parliament and impowered for the managing the affairs of the commonwealth, till a new parliament should meet, and so the present parliament dissolved.

"Whitlock was against this proposal, and the more, fearing lest he might be one of these 40; who, he thought, would be in a desperate condition after the parliament should be dissolved; but others were very ambitious to be of this number and council, and to be invested with this exorbitant power."—WHITELOCK'S *Memorials, p.* 529.

He then narrates the celebrated exertion of violence by which the parliament was dissolved, and concludes: "Thus was this great parliament, which had done so great things, wholly at this time routed by those whom they had set up, and that took their commissions and authority from them; nor could they in the least justify any action they had done, or one drop of blood they had spilt, but by his authority.

"Yet now the servants rose against their masters, and most ingratefully and disingenuously, as well as rashly and imprudently, they dissolved that power by which themselves were created officers and souldiers; and now they took what they designed all power into their own hands.

"All honest and prudent indifferent men were highly distasted at this unworthy action."—*Ibid.*

of a firm belief that they were meditating the ruin of the kingdom, which having no legal authority, might easily be dissolved by the same power that supported it. So that there is not the least pretence for Ludlow's outcries of usurpation against Oliver, who had as much right, if he saw cause, to dissolve them as they had to sit; more especially, seeing neither Ludlow, nor any of his party, could claim any redress from the law of the land, to which they were all sworn enemies by virtue of their engagement; nor was there any other law to make it usurpation, unless they meant some petty votes of their own, which signified nothing.

The lieutenant-general's next charge upon Cromwell, is an accusation of tyranny; not that the lieutenant-general ever felt the effects of it, unless it were his being turned out of commission for endeavouring to raise the *Posse Comitatus* upon him, as we told you before, by dispersing petitions and memento's against Oliver and his government, which he thought in his silly conscience,[1] to be a duty incumbent upon him: but because the lieutenant-general having read or heard that usurpation and tyranny were generally concomitants, he thought it a duty incumbent upon him to give Oliver a double scratch, and because he had charged him with usurpation, that therefore it behoved him to accuse him of tyranny, by reason they were so near a-kin. Such blunders do men commit that are sway'd by prejudice and disgust. Now, therefore, we are to examine who were the greatest tyrants, the Rump or Cromwell. The definition of tyranny, according to Aristotle, is the domination of one or more men, with regard to nothing else but their own proper interest and advantage.

Now you have heard the characters of the generality of the Rump, that they were proud, ambitious, and self-seekers: endowments so temper'd by original sin to qualify men in authority for tyranny, that it is a difficult thing for those that possess them to avoid the temptations of despotic dominion. But to come to particulars: Their despotic votes, from whence there was no appeal; the sequestrations, decimations, their committee-men, Basha's and Sangiacs in every corner of the kingdom, to extirpate the ancient gentry and nobility of the nation; their designing the very annihilation of kingship, by exposing the palaces of royalty to sale; their lording it over the episcopal clergy to that degree, that they would not suffer them to have two or three gathered together in their Saviour's name, as if the cavaliers had no right to Heaven; taxes imposed *ad libitum* by a usurp'd authority, to maintain wars with Holland, wars with Portugal, that signified nothing to England, but tended all to the advancement of their own grandeur: and all this while, the nation rent and torn, family against family, parents against their children, foreigners increased in the staple manufactures of the kingdom, and confusion, that always nurses anarchy and tyranny, as the wolf did Romulus and Remus, raging uncontroled from Dover to Berwick.

While the kingdom was in this disastrous condition, Cromwell steps in, and puts a stop to these precipitant Phaetons, that had quite overturned the chariot of government, and finding no other way but to restore the ancient establishment of a single parliament, takes the reins into his own hands. And this is that which our lieutenant-general of the forces in Ireland snorts and fumes at with so much indignation, and calls, though very improperly, his own circumstances considered, a betraying of the precious cause, and a sacrificing of all their victories and deliverances to his pride and ambition,[2] contrary to his former solemn vows and professions. A charge of a high nature, but which has been sufficiently answered already. However, Cromwell would not be over hasty in this affair of so great importance; he first calls an assembly of men, the best and most able, as he thought, to find out an expedient to rescue the nation from the growing confusions that were like to overwhelm it. But these persons, after they had for some time laid their heads together, proved as arrant bunglers as the others were

[1] P. 524. [2] P. 471.

fools and knaves; however, they had the honesty to acknowledge it, and so, unwilling to go beyond their last, resigned up their power in his hands who called them together.' Now, whether this were done out of policy, for form and fashion sake, or out of sincere intention, is not here to be disputed; we are only to clear it from Ludlow's aspersion of tyranny, as being a method that looked with a much better face of moderation and reason, and carried a fairer pretence of satisfaction to the nation, than the lawless violence of the Rump, in taking possession of their several thrones, and voting themselves into an arbitrary and despotic domination, without the least consent of the people, but imposing themselves upon them for their representatives, without any regard to the laws and constitutions of the land.

On the other hand, Cromwell (and the gentlemen before mentioned had resigned their authority up to him,) before he would intrude himself upon the nation, draws up a certain instrument, containing several covenants and compacts between him and the people, which he took an oath in the presence of God never to violate or infringe, but to govern the three nations according to the laws, statutes, and customs thereof, seeking peace, and causing justice to be equally administered.

This the Rump never did. They broke the laws and statutes of the realm every day in the year, and required that all people should swear to them, but they swore to nobody. They gave no reason for their actions, but called themselves *Custodes Libertatis Angliæ*, and as such they locked it up with their great seal, and would never part with it to the people. They were only ingenuous in one thing, that they acknowledged what God they served by their *Deus nobiscum* upon their coin. And this same Mammonish deity seems to have had a great influence upon the conscience and piety of our lieutenant-general, by his complaint for the abatement of his pay, and the vial of his wrath poured out upon Cromwell[2] for distributing a thousand pounds a year to the members of his council, when he himself was turned out of the council of state and his lieutenant-generalship in Ireland, and sent a grazing into Wiltshire, after all his great services at Wardour-Castle, and against the bogtrotters, and his obstructing the proclaiming the Instrument of Government in Ireland, in obedience to the squeamishness of his crazy conscience, which put him into such a heat every time he thought of it in Switzerland,

[1] Alluding to Barebone's Parliament, concerning which, in addition to the curious information which occurs in the previous tracts, the reader may take the following notices:—"Observing also that there are present truths, and every work being beautiful in its season (as in the beginning of the late wars) was the witnessing against the book of common-prayer, cross in baptism, and other ceremonies, (being superstitious things imposed by the bishops) and against ship-money, monopolies, &c. (civil things) imposed formerly by the king. All which were afterwards declared, protested, and covenanted against; which protestation and covenant are fresh in the memories and pressing upon the consciences of some of us even unto this day: besides the engagement and the several acts of parliament made against monarchy or kingly government, all which now seem to be forgotten and neglected: and those that speak or write in defence of such things, as the parliament, army, and the godly people in the three nations, approved, asserted, and purchased at a dear rate, are now accounted fanatick fools, disturbers of civil states, are intermedlers in things that concern them not; under which notion many suffer imprisonment and other trials as evil doers from those men, who now build what they did once destroy, and justify what they did once condemn. Witness their own writings, particularly the declaration of the officers and soldiers of the English army (whereof the Lord Cromwell was generall) the words whereof are as followeth:—'We are persuaded in our consciences that the late king and his monarchy was one of the ten horns of the beast spoken of, Rev. xvii. ver. 13, 14, 15, and that we were called forth by the Lord to be instrumental to bring about that which was our continual prayers unto God, viz. the destruction of Antichrist, and the deliverance of his church and people, and upon this single account we engaged, not knowing the deep policies of worldly statesmen, and we have ever since hazarded our lives in the high places of the field (where we have seen many wonders of the Lord) against the opposers of the work of Jesus Christ, whom we have all along seen going with us, and making our way plain before us; and having these things singly in our eye, namely, the destruction of Antichrist, and the advancement of the kingdom of Christ, the deliverance of his church, and the establishment thereof in the use of his ordinances, in purity according to his word, and the just and civil liberties of Englishmen."—THURLOE's *State Papers*, *IV.*, 381.

[2] P. 479.

that he was resolved to be even with Cromwell for it; and therefore lays it as a heavy charge upon him, his allowing 1000*l.* a year to his privy council, to tell the world [1] that he did it "as a public robber, who had possessed himself of the purse of the nation, because nothing of conscience or honour could be presumed would ever keep them steady in their fidelity to him." Never considering that his spotless Rumponians were of the same opinion, which made them carve the wealth of the nation so profusely one to another, to cement their mutual union, that Martin [2] was reported to have spent a hundred thousand pounds of their liberality upon his concubines, of which the donative of Darby house was a part. And they who desire to see a farther list of the munificent gratuities of their fidelity to each other, may find it in the History of Independency, unless my memory fail me.

But to return to Cromwell, it is apparent that still he gave reasons for what he did. He tells the world, That having had sufficient experience of the inconveniencies of a republican dominion, which was altogether dissonant from the temper of the nation, he had reduced it to the ancient form of a single person and a parliament, as being most agreeable to the sense of the nation, judging it to be the most likely means to avoid the extreams of monarchy on the one hand, and democracy on the other, yet not so neither as to found *dominium in gratia*. And to show how far he was from intending a tyrannical and despotic rule, he drew up an instrument, containing several covenants and agreements with the people, with the form of an oath to be taken by him for the performance of the several articles.

The chief of these covenants were, That the laws should not be altered, suspended, repealed, or abrogated, nor any new law made, nor any tax or imposition laid upon the people, but by common consent of parliament.

That there should be a triennial parliament, not to be dissolved before they had sate five months; which should be summoned sooner, if the necessities of the state required it.

That the office of the single person should be elective, and not hereditary.

That liberty of conscience should be allowed to all professors of the Christian faith, but the public and open profession of popery and prelacy not to be allowed.

That every successive single person should take and subscribe a solemn oath to seek the peace, quiet, and welfare of the nations, and to cause law and justice to be equally administered.

Now, with our major-general's leave, I would fain know what tyranny there was in all this? More than this, as to the sincerity of Cromwell's intentions, if we may believe him (as there is certainly much more reason to believe him speaking as it were in the presence of God, than to give credit to an exasperated bigot jabbering to the canton of Bern,) he assures the parliament which he had called, that he desired not to keep the government any longer than he might preserve England in its just rights, and the people in their just liberty of conscience. To this we may add, that at another time, in his speech to his parliament, speaking of his government, he has this expression, That let men say what they would, he could speak it with comfort before a greater than any of them, as to his own intentions, it was a thing calculated for the interest of the people alone, and for their good, and without respect had to any other interest.

I do not find in all Ludlow's Memoirs any such league made for the welfare of the nation by the Rump, or any such tenderness so much as pretended by Ludlow's republican patriots. Ludlow takes no notice of all this, but runs on, hunting after all the riff-

[1] P. 479.

[2] Sir Harry Martin, celebrated for incontinence, whom Cromwell upbraided with that vice at the time when he expelled the parliament.

raff of defamation and reproach which he can rake together, on purpose to pull down his memory, and bury it under the rubbish of his Memoirs. He scrapes together, with an implacable malice, all the bad, or will admit of bad interpretation, concerning him, but he omits every thing that might be justly said in his favour, which, if we may believe Cicero, is the greatest proof of the injustice of an accusation that can be.

Baxter, though no friend to Cromwell, was in this particular more ingenuous. He mixes what he thought bad and what he esteemed good in Cromwell both together, and his words are worth reciting, as bearing a signal testimony against the virulency of Ludlow. "I did in open conference," says he,[1] "declare Cromwell and his adherents to be guilty of treason and rebellion, yet I did not think it my duty to rave against him in the pulpit, the rather because, as he kept up his approbation of a godly life in the general, and of all that was good, except that which the interest of his sinful cause engaged him to be against, so I perceived that it was his design to do good in the main, and to promote the gospel, and the interest of godliness, more than any had done before him; and it was the principal means that he trusted to for his own establishment, even by doing good, that the people might love him, or at least be willing to have his government for that good." And, speaking of his carriage after he had assumed the protectorship, "He had the policy," says he[2] "not to detect or exasperate the ministers or others that consented not to his government, having seen what a stir the engagement made before, but he let men live quietly, without putting an oath of fidelity upon any but his parliaments."

From whence it is obvious that it was a piece of tyranny in the Rump, that they would let nobody rest in quiet who did not swallow their engagement, which was a tyranny not only over the bodies, but the very souls and consciences of men, of which Ludlow, in the height of his partiality, says nothing.

By the way, there is one accusation which Baxter and Ludlow both charge upon Cromwell, that he permitted many things, to necessitate the nation to take him for their governor, which Cromwell taking notice of, gives this solemn answer, in his second speech to his parliament: "And I say this," says he, "not only to this assembly, but to all the world, that that man lives not, who can come to me and charge me that I have in these great revolutions created necessities: I challenge even all that fear God." After all this, I must leave it to judgment whether it be fair to favour the suppositions and conjectures of bigotry against so solemn a challenge as this.

And now we are to compare the benefit which the nation received by the Rump with the advantages of the Protector's government. As for the actions of the Rump, the chiefest of remark was their war with the Dutch, a war by which the nation reaped no benefit, and which the Dutch declined as much as possibly they could, disowning the rash action of Trump, and taking God to witness that his fighting the English fleet was against the knowledge and will of the States-General. But the Rump, who then thought themselves the lords of three kingdoms, and were setting up for a commonwealth, and flushed up with Cromwell's victories at Dunbar and Worcester, resolved to let the Dutch know, that as they were the largest, so they would be the topping republic in Europe, and would not have the point of precedency disputed with them; which was the reason that most people, because they could find no better, gave for their entering into a war impertinently expensive to the nation, and altogether against the protestant interest, which ought to have been much more dear to those pretended zealots than a punctilio of honour. As for their war with Portugal, it had somewhat a better pretence, because that king protected Prince Rupert's revolted ships in his harbours; but it caused a great cessation of trade.

[1] Baxter's Life, part I. p. 71. [2] P. 74.

On the other side, Cromwell made peace with the Dutch, and made them pay for it. He renewed the leagues with Sweden and Denmark, by which he kept the Sound open to his merchants, and strengthened the protestant interest. He relieved the distressed protestants of Savoy with considerable sums; and if he erred in closing with the French instead of the Spaniard, yet thereby he added Jamaica and Dunkirk to the British dominions, the loss of the last of which places has been too sadly lamented in these our last wars with France. At home he took care to fill the seats of justice with men of known integrity and ability, and he went a great way in reforming the abuses of the law. Lastly, he kept the nation in peace, trade flourished, and money was plentiful under his government.

But he was no sooner laid in his grave but the Rump, which was enough to shew the nature of the beast, broke in upon his son Richard, and put all into confusion again, and by that means made good the truth of all the remonstrances and declarations that the army and Cromwell put forth in justification of their proceedings against him. This, Baxter says, "as done by them, was as barbarous a perfidiousness as ever history did declare, that they should so suddenly, so scornfully, and proudly, pull down him whom they had so lately set up and sworn to, and that for nothing. They could scarce tell why themselves; nor were ever able to give the world a fairer reason for their villainy than the Munster fanatics had for their bedlam outrages and rebellion; as if perjury and rebellion had been newly put into the commandments."

And here it is time to make a stop, that I may not trouble the reader with repetitions and impertinences, which would certainly be the consequence of any farther tracing the remainder of his Memoirs, wherein he seems to be only in a pleasing trance, gratifying his own humour, and talking of old stories, like old weather-beaten officers in the chimney-corner of a lame hospital.

From the whole, there is only this one observation farther to be made, how great a prejudice posterity receives from such mountebanks in history as the author of these Memoirs. For the supream law of history is, that there be no suspicion of favour or affection, none of envy or partiality, nor any thing of ostentation in the writer, of all which crimes these Memoirs are apparently guilty. And therefore such commentaries as these are better committed to the flames, than transmitted to future ages, which are thereby led into error, and altogether deprived of making a right judgment of preceding times. Truth is darkened either *libidine assentandi*, or *odio adversus dominantes*; and so between folly and knavery there is no care of posterity; and therefore, in regard that men, for scandals and defamations of the living, are many times punished with severe penalties, how much more do all passionate and misguiding histories, that murder the fame and reputation of the dead, deserve the condemnation of all the rational part of mankind.

The Speech of his Highness the Lord Protector, made to both Houses of Parliament, at their first Meeting, on Thursday the 27th of January, 1658.

The parliament which was convoked by Richard Cromwell upon his father's death met on Tuesday 27th January, 1658, where, according to Whitelocke, the Protector made a solemn speech to them, but was short, by reason of his indisposition of health. After his Highness, Lord Commissioner Fiennes spoke at more length, and to the same effect. Whitelocke has preserved the last oration at length, which enlarges upon the topics which the Protector briefly alludes to. The principal object of encomium is the new form of government by two houses of parliament and a protector; and it is prognosticated that the two former shall be blessed, "like Leah and Rachel, which did build the house of Israel." Both speeches exhibit an odd mixture of sound sense, foolish cant, and truckling subservience to the existing powers. They contain all the most plausible arguments in favour of a settled government, and the lord commissioner is at great pains to warn the parliament both against that restive adherence to old principles which animated the cavaliers, and the restless love of innovation which distinguished the republicans. The one party, he said, refused to go "God's way and God's pace" (*i. e.* to submit to the royalty of Cromwell,) because they cannot go their own (that is, recal the exiled family.) As to the innovators, he accuses them of digging up foundations, turning, overturning, and disliking all things; and therefore he cautions his hearers both against those who would build upon opposite foundations, or upon no certain foundations, or, for variation of phrase, who conceived either the Utopia of some imaginary commonwealth, or had day-dreams of the return of the golden age with the old line of royalty.

It will shortly be seen how completely these tropes of rhetoric were thrown away upon the parliament.

My Lords and Gentlemen,

I BELIEVE there are scarce any of you here who expected some months since to have seen this great assembly at this time, in this place, in peace, considering the great and unexpected change which it hath pleased the all-disposing hand of God to make in the midst of us: I can assure you, that if things had been according to our own fears and the hopes of our enemies, it had not been thus with us; and therefore it will become both you and me, in the first place, as to reverence and adore the great God, possessor of heaven and earth, in whose hands our breath is, and whose are all our ways, because of his judgments, so to acknowledge him in his goodness to these lands, in that he hath not added sorrow to sorrow, and made the period of his late Highness's life, and that of the nation's peace, to have been in one day.

Peace was one of the blessings of my father's government; a mercy after so long a civil war, and in the midst of so great division which that war bred, is not usually afforded by God unto a people in so great a measure.

The cause of God and these nations, which he has engaged in, met in all the parts of it, as you well know, with many enemies and great opposition; the archers, privily and openly, sorely grieved him, and shot at him, yet his bow abode in strength,

and the arms of his hands were made strong by the hands of the mighty God of Jacob.

As to himself, he died full of days, spent in great and sore travail; yet his eyes were not waxed dim, neither was his natural strength abated; as it was said of Moses, He was serviceable even to the last.

As to these nations, he left them in great honour abroad, and in full peace at home, all England, Scotland, and Ireland dwelling safely, every man under his vine and under his fig-tree, from Dan even to Beersheba.

He is gone to rest, and we are entered into his labours;[1] and if the Lord hath still a blessing for these lands (as I trust he hath,) as our peace hath been lengthened out to this day, so shall we go on to reap the fruit and gather the harvest of what his late Highness has sown and laid the foundation of.

For my own part, being, by the Providence of God and the disposition of the law, my father's successor, and bearing that place in the government that I do, I thought it for the public good to call a parliament of the three nations, now united and conjoined together in one commonwealth under one government.

It is agreeable, not only to my trust, but to my principles, to govern these nations by the advice of my two houses of parliament.[2] I find it asserted in the humble petition and advice (which is the corner stone of this building, and that which I shall adhere to,) "That parliaments are the great council of the chief magistrate, in whose advice both he and these nations may be most safe and happy." I can assure you I have that esteem of them; and as I have made it the first act of my government to call you together, so I shall further let you see the value I have of you, by the answers that I shall return to the advice that shall be given me by you, for the good of these nations.

[1] The protectorship.

[2] Fiennes is very eloquent (according to the eloquence of the period) upon the same doctrine.

"Into what condition the late wars and distractions had brought these nations, and what a cloud of darkness had covered the whole face of the government (being void and in a manner without form,) we all know, and the three nations sadly felt, and were sensible of those farther confusions that might have ensued; but it pleased God that light sprung up amongst us, and things began to move towards something of order and consistency.

"But as yet the earth and water were in one mass together. Then were the waters beneath the firmament divided from those above the firmament. There was constituted a chief magistrate and a parliament, the one distinct from the other, that each one from its proper place might the better put forth its influence and usefulness for the good of the whole.

"After it pleased this parliament, by their humble petition and advice, to distinguish the parliament also into two houses; and that great and noble body of the waters retiring into their own receptacle, the dry land appeareth.

"And what now remains, but that, by the sweet influence of that powerful spirit that moved upon the waters, every herb should bring forth seed according to its own kind, and that the sun, moon, and stars, the ordinances of magistracy and ministry, should shine brightly in the firmament of heaven, in their greater and in their lesser lights, according to the proportion that God hath dispensed to each one, and that fish and fowl should multiply in the waters and in the air, and that beasts of all sorts increase in the earth; that all trades, all professions, all ranks and degrees of men, might be subservient to that sound Adam and his spouse, Christ and his church, that they may be formed and set up amongst us, and placed in a garden of Eden, with all freedom, without fear or disturbance; they may enjoy all spiritual delights, and have communion with one another and with God, which, though last in execution, I hope always was, and always shall be, the first and chiefest in our intentions.

"The holy angels of God, when the foundations of the earth were laid, did not say, Here is a rude mass of earth and water; here is, indeed, a little light, but where is heaven, sun, moon, and stars? Nay, where is man, made after the image of God? But, on the contrary, as is witnessed from the mouth of God himself, when the foundations of the world were fastened, and only the corner-stone thereof laid, the morning stars sang all together, and all the sons of God shouted for joy. From whence we may discover one, and that a most dangerous rock, which, if not heeded, we may split upon. It is a spirit of discontent and dislike of the present dispensations of God, because all things are not perfect in an instant, and such as it is to be wished they were, and such as possibly in God's due time they may be."—WHITLOCK'S *Memorials*, p. 667.

You are come up from your several countries as the heads of your tribes, and with hearts (I persuade myself) to consult together their good: I can say I meet you with the same desires, having nothing in my design but the maintenance of the peace, laws, liberties, both civil and Christian, of these nations, which I shall always make the measure and rule of my government, and be ready to spend my life for.[1]

We have summoned you up at this time to let you know the state of our affairs, and to have your advice in them, and I believe a parliament was never summoned upon a more important occasion.

It is true, as I have told you, we are, through the goodness of God, at this time in peace;[2] but it is not thus with us because we have no enemies. There are enough, both within and without us, who would soon put an end to our peace, were it in their powers, or should it at any time come into their powers.

It will be becoming your wisdoms to consider of the securing of our peace against those who we all know are and ever will be our implacable enemies.[3] What the means of doing this are I shall refer unto you.

This I can assure you, that the armies of England, Scotland, and Ireland, are true and faithful to the peace and good interest of these nations, and it will be found so, and that they are a consisting body, and useful for any good ends; and if they were not the best army in the world, you would have heard of inconveniencies, by reason of the great arrear of pay which is now due unto them, whereby some of them are reduced to great necessities. But you shall have a particular account of their arrears; and I doubt not but consideration will be had thereupon in some speedy and effectual way. And this being matter of money, I recommend it particularly to the house of commons.

You have, you know, a war with Spain, carried on by the advice of parliament; he is an old enemy and a potent one, and therefore it will be necessary, both for the honour and safety of these nations, that that war be vigorously prosecuted.

Furthermore, the constitution of affairs in all our neighbour countries, and round about us (as well friends as enemies,) is very considerable, and calls upon us to be upon our guard, both at land and sea, and to be in a posture able to maintain and conserve our own state and interest.

Great and powerful fleets are preparing to be set forth into these seas, and considerable armies of several nations and kings are now disputing for the mastery of the Sound, with the adjacent islands and countries, among which is the Roman[4] emperor, with other popish states. I need not tell you of what consequence these things are to this state.

We have already interposed in these affairs, in such manner as we found it necessary for the interest of England; and matters are yet in such a condition in those parts, that this state may, with the assistance of God, provide that their differences may not prejudice us.

The other things that are to be said I shall refer to my Lord Keeper Fiennes, and close up what I have to say with only adding two or three particulars to what I have already said.

And, first, I recommend to your care the people of God in these nations, with their concernments. The more they are divided among themselves, the greater prudence should be used to cement them.

Secondly, The good and necessary work of reformation, both in manners and in the

[1] See his following letter to the parliament. [2] Meaning the royalists, who would reinstate the royal family on the throne. [3] Because of the usurpation then renewed in the person of Richard. [4] Or German.

administration of justice, that profaneness may be discountenanced and suppressed, and that righteousness and justice may be executed in the land.

Thirdly, I recommend unto you the protestant cause abroad, which seems at this time to be in some danger, having great and powerful enemies, and very few friends; and I hope and believe that the old English zeal to that cause is still among us.

Lastly, My lords, and you gentlemen of the house of commons, that you will in all your debates maintain and conserve love and unity among yourselves, that therein you may be the pattern of the nation, who have sent you up in peace, and with their prayers, that the spirit of wisdom and peace may be among you; and this shall also be my prayer for you; and to this let us all add our utmost endeavours for the making this an happy parliament.[1]

Seasonable Observations humbly offered to his Highness the Lord Protector. By Samuel Lamb, of London, Merchant.

The author of the following tract, seeing the evident advantages which might be derived to national credit by the establishment of a bank, seems to have had the temerity to think that parliament might conclude his project as worthy of attention as those which almost every individual member was then engaged in for his own interest. It is scarce necessary to say, that, amid the civil dissensions of the period, and the apprehensions of a renewed civil war, his observations, however wise, proved any thing but seasonable. The Bank of England was not established until 27th July, 1694, when the Revolution had put the government of the country upon a secure basis.

It hath been often asserted, That if all people under one government did seek the general good, every single person would then receive a particular benefit thereby.

And it is observed in societies that are in a joint trade, and have by-laws and orders among themselves, that if an interloper privately deal amongst them in the same way, not submitting himself to the by-laws and orders of the company, that he will receive to himself a greater profit for the present than any particular person of the same incorporated society, though, if the undiscovered practice thereof should be continued and not prevented, it would tend to the utter ruin and destruction of the said society and trade for the future. Even so it is in a populous commonwealth, where part of the people, by unlawful and destructive ways, seek their sinister ends, to the general hurt and prejudice of the well governed people therein.

To avoid which evils, in all good governments necessary and wholesome laws are contrived and established, to preserve and protect the property and peace of each particular person, and every one living under such protection is bound in duty to further the prosperity of his country with all his utmost endeavours; for no one is born to himself alone, but also to do good to others, and some way or other may be a profita-

[1] As it proved by restoring monarchical government.

ble member to his country, according to the measure God hath given him. To which end I have, for the general good, observed these two chief ways that make a nation rich and flourishing, viz.

By arms and conquest.

By foreign traffic and merchandize.

To both which no people are more apt and prone than the English nation. In the former, their actions both by sea and land have sufficiently manifested it to all the world, both at home and abroad, in former and later ages, to this very day. In the latter, our former prosperity and strength in shipping have sufficiently shewed our aptitude therein, though then much hindered and discouraged from our growing greatness, by the avarice of some who minded their particular profits before the general good, which hath caused the strength of our warlike shipping in trade to be much impaired and diminished, though small notice is publicly taken of it, which hath put me upon the considerations following:

1. The usefulness and necessity of increasing the trading shipping of England.
2. The state and condition our trading shipping were in before the late wars in England; and the condition they are in at present.
3. The state and condition of the Hollanders shipping and trade at present.
4. The reason of the Hollanders so great thriving in trade in so short a time (among others) is shewed their use of banks.
5. The benefit they have received by banks.
6. The prejudice and hindrance we receive by their banks.
7. The good we may do ourselves by the use of banks in England.
8. The manner of a bank described.
9. Lastly, the usefulness of a court of merchants.

All which I shall treat of in their order.

First, It hath always been the general received opinion (grounded upon uncontradicted reason) that the people of England need not fear any foreign invasion, so long as they do maintain and increase the walls of their land, viz. their shipping and mariners, which is the chiefest power and strength of the nation against a foreign enemy; whose increase will not only much strengthen and inrich the maritime and frontier towns and countries bordering on the sea coast, but also the whole nation; and will also make us always capable to ballance the affairs of another state in reference,

To war,

To trade.

By the former, we are now seasonably seeking reparations from the Spaniard, for the many and cruel injuries and murders committed by them upon the person and goods of the people of England in the West Indies and other places; for which, since no reasonable satisfaction could be tendered in a peaceable way, do hope, by God's blessing, will be obtained by a just war: And therefore it is necessary upon this occasion, as against all others, for the English nation to strengthen themselves what they can, and to use all good endeavours thereunto.

For the latter, in reference to trade, we may well suspect the studious industry of our neighbour the Hollanders will soon overbalance us, if not timely prevented, they, at present, making a great advantage to themselves to our great prejudice, by the war between us and Spain, whose king hath lately prohibited wearing the manufacture of England, of which kind the Hollanders will furnish them with of their own making, and if they want workfolks, will easily entice over English wanting employment to work for them and teach their people, by which means much increasing their trade; and when they know themselves thereby to grow rich by increase of trade, and con-

sequently strong by increase of shipping and mariners, and another nation poor by decrease of trade, and also weak by decay of shipping and mariners, how forward will they then be to prescribe laws to such a decayed nation. For it hath been long observed, that as the Spaniard aims to get the universal monarchy of Christendom, so the Hollander the universal trade, not only of Christendom, but of all the known world, from which they have been termed the carriers of the world, through their multitude of shipping, sending them out to all nations that have any trade by sea, and sometimes for men of war; and until the late encouraging act for increasing the navigation of this land, the English merchants themselves, since the beginning of the late wars in England, usually freighted Holland ships to fetch home their own goods, because they would go for less freight than the English ships could, having less charge, by carrying fewer men than an English ship of the same burden, and less provision, which ships were usually insured in London; and it is the Hollanders custom to this day, that when they send any single ship to the southward for their own accounts, oftentimes to insure them in England; and if they miscarry, then the English make good their losses, as too often it so falls out; and if such ship comes well home, they save the premium in sailing such shipping with less charges than the English do theirs of the same burthen; and being so weakly manned, if they at any time chance to meet a Turk's man of war, they seldom fight with them as the English do, and so oftentimes honourably acquit themselves, but deliver up their shipping without firing a gun, to save the seamen's liberty, and what belongs unto them, and so arm the Turks against all Christendom. But when they send unarmed fleets into any country, at the fit seasons of the year, when merchandize is to be had in such country they are bound for; then, if there be danger, they send a squadron of men of war to convoy them at the public charge, and these are seldom insured. But if any English ship of force go the same voyage such single Dutch ship went, seldom any insurance is made, except she be missing, or her safety doubted, because they usually go safer, being better provided of men and other necessaries for defence against the danger of enemies and bad weather; and also before the said act, the Hollanders served us with the commodities of other nations in their own ships, both in England and in our western plantations, while our English ships lay in harbour for want of employment till they were unserviceable, and our mariners took employment of the Hollanders to sail their ships, to get their livelihoods, to the great loss and dishonour of the English nation; and since the said late act, how diligent the Hollanders have been, notwithstanding the same, that to their cost a whole fleet of them together were surprised, trading at the Barbadoes, and forfeited according to the penalty of the said act, which shews how well they like trading with us with foreign goods in their own ships, that though they dared not bring any for England, fearing the penalty of the said act, yet they would run so great an hazard to serve our plantations, peradventure intending to overawe the penalty of confiscation, by continually having a greater power in shipping there than we had, that if a seizure had been attempted by the English there, they might have overpowered them, and made such an attempt of no effect, not once dreaming that a fleet of men of war would stop there to seize them in their way to Sancta Domingo and Jamaica. Now, although the said act hath breathed some refreshing to the decaying trade of the English nation, yet it hath not altogether cured her of her disease, as will be shewn hereafter; besides, the present abuse not looked into as ought to be, in entertaining strangers ships in Englishmen's names in the custom house.

It hath been also observed how industrious the English nation are and have been, not only in contriving and building convenient and strong ships for burthen, swift-sailing, and of force, but also in managing the same as well in single fights in trade

for defence against pyrates, and in fleets in public wars with a foreign enemy, to their perpetual honour and terror of their adversaries; witness the many single fights at sea against the Turks, to whom it is believed the Dutch lose ten ships for our one, and the remarkable sea-fights against the Hollanders themselves in the late wars, wherein many merchant ships, from about 300 tons to about 500 tons, did engage against the enemy, with the States ships and frigates, to our great advantage, which, at that time, would have been much wanted, if they had not been built; the enemy, notwithstanding, much overnumbering us every fight in ships and tonnage, and yet supplied their loss of ships daily taken and destroyed by us, assisting their men of war still with their merchant-men of equal force and burthen, and some bigger, such as they usually send to the East Indies; which foregoing passages shew the excellent use of English shipping, and the necessity of increasing them, which cannot be done no way so well as by trade, for war is known to be chargeable, hazardous, and bloody; therefore how ought trade to be cherished, maintained, and encreased with all power, diligence, and invention that can be contrived.

Secondly, If we take into consideration the state and condition our trading shipping were in before the late wars in England, we may find, by the East India Company's account, that they alone did employ, in that trade, at once 15000 tons of shipping, which were accounted to be of the best sort of trading ships belonging to England, of the burthen of about 300 tons to about 600 tons. But the old company were at last so decayed in their shipping, through the discouragement of trade, and undermining of the Dutch, and other casualties, that they had hardly one good ship remaining at their giving over; so the last new company thought it better to freight ships for their employment, which they always did, rather than build any. But now, if the new established company will freight ships also, and not build, they will find very few of force and burthen fitting for that employment; for I cannot hear, for about these ten years past, that a trading ship of about 400 tons hath been built in England, and those that have been built within that time seldom were so big as 200 tons; but I believe ten for one of less burthen, which, with other slight ships, that are usually insured, do supply that little trade the Dutch have left the English nation in the Streights, which in former times used to employ, by estimation, not less than about 80 or 100 sail of good ships of about 3 and 400 tons burthen each ship, and upwards; but now the English trade will not maintain and employ ships of such burthen and defence, which is the reason so many small ones have been taken by the Spaniards of St Sebastians, Majorca, and other places: And I have formerly known many ships of the like burthen built and equipped in England, purposely to send to Venice, to let out to that state for men of war to serve them against the Turks. But the Hollanders soon eat us out of that employment also, by serving them with ships of equal burthen with ours, for less freight than we could with our ships, which they might afford to do for the reasons hereafter declared.

And whereas the company of merchant adventurers trading for Hamburgh used yearly to send about twenty good ships thither, chiefly laden with the manufactures of England, the vent whereof gave great employment to many tradesmen, besides the poor; but this year they have sent only one ship from London, the last shipping, and the goods of that ship will not go off neither; and the wool that makes these manufactures, that usually sold for about 10*d.* per pound, is sold now, as I hear, for 6*d.* or 7*d.* which shews a great alteration and deadness of trade, which, at this time, is the general and daily complaint of all tradesmen of what profession soever. The like might be instanced in our shipping trading for the east country, and other places, where we send one now, formerly we sent ten at least, the continuance whereof will much decrease the strength of the English shipping, and is an apparent sign of the general decay of the foreign trade of England, which ought to be so well managed and encouraged

without delay, as that we should equal, if not exceed, all other our neighbour nations; for if any one nation grow greater in power than another, so as the weaker become subject to the conditions of that one greater nation, either in state affairs or government of trade, how ready then will all other nations be to endeavour to make their own terms? or to be ready to make a prey of such a declined people; and, if the case were ours, would it not be so with us? other nations bearing a kind of envy to our former happiness in good successes and noble atchievements, both at home and abroad; for what corner of the world hath not been searched by us to find out trade? The profit whereof (the reward of industry) gave first boldness to venture to pass the main ocean, and make new discoveries in foreign parts round about the world, and hath enlarged our nation with many new and large plantations, to the enriching, cherishing, and employing of many thousands of our people, by which may be discerned the flourishing and prosperous condition the English shipping were in, which, without doubt, will soon increase again with the increase of trade.

But it may be objected, there is no such need of great ships now as hath been for the defence of the seas, seeing we have so great and gallant a fleet of men of war, which are more serviceable upon occasion than merchantmen taken into warlike employment.

It is answered, that admit a very strong fleet of men of war were always maintained, such a one as, in any man's judgment, did equal any fleet of men of war of any neighbour nations, and that we should have war with any such nation, and in fight part of the fleet should be lost, or so battered that they could not be so suddenly recruited, or made serviceable, as there might be occasion for them to supply the place and service of those ships that might be so lost or defective, but by merchants ships; as in the late war with Holland, it was observed what gallant service every merchant's ship performed, when each captain was shifted out of his own ship into another; when at the first every captain continuing in his own ship was not so adventrous, not out of cowardice, as dreading what might happen to his person, but out of desire to prevent the damage that might happen to his own ship, which might turn to the loss of his owners, the captain well knowing the charge in repairing them again, or building others; and peradventure, if their old ones had been lost, it might have been a hard thing for him that lost his ship to get friends to join together to build him another; for now shipping is esteemed the worst commodity this day in England, every one that hath any being willing to sell, because they lose by them through want of trade and employment for them; whereas if trade were quick, and any profit came by them, every one would be desirous to be interested in them.

Moreover, if a standing fleet of men of war, as aforesaid, should be maintained, and having a war with another nation, that fleet should hold always good, so as there were no need of merchant ships to join with them, yet it must be considered that infallibly the want of trade will much impoverish the people of England, which otherwise know not how to subsist, they encreasing so much, notwithstanding the late wars, and the land (though full of plenty) not encreasing with them, being an island; witness the many entertained for soldiers, either for want of trades, or by decay of their trades, and the many daily going for Ireland and the plantations, and yet there is no miss of them; for in any town or parish, where any house or farm is to be let, (notwithstanding the improvement of the late king's and bishops lands, &c.) how many strive for it, till the rent is thereby so raised upon the landlord, by out-bidding each other, till at last, he that taketh it, is either undone or weakened in his estate with over-renting it; and so the people's estates are too often impaired in defraying their respective charge for want of trade; and considering that such a standing fleet of men of war will be a great charge and burthen to the people to maintain it, which will help to impoverish them more and more: but, on the contrary, the preservation and encrease of trade

will not only maintain a gallant fleet of warlike ships and mariners, such as all the known world will not only admire, but stand in fear of, and will also enrich and strengthen the whole nation.

Thirdly. The condition and number of the Hollanders remaining shipping in trade is such, that they are beholding to the English for them, in that not only their shipping, but their people too, were not destroyed in the late wars with them, which in probability might have come to pass, had the war continued till this time with the like success, that it pleased God then daily to give to the English nation; but if the same success had happened to them, their former cruelties to the English in Amboyna, and present practices in East India, would make it questionable, whether they would have granted such good conditions to the English as they did to them at the concluding of the peace between both parties; for who knows but that their besieging Bantam (which is supposed to be taken by them) is only a design upon the natives, contrived purposely to enable them, by the gaining of it, wholly to remove the English from that factory, to prevent them of trade in India, now the English company trading thither had so much discontinued it; and if they could do as much by Surrat also, then how easy will it be for them to command the coast? They being so powerful in shipping there, may deny any nation trading thither, without danger, but whom they please; and then if we will have any commodities from thence, it must be with their good liking and consent. But it is not often known that they easily yield to any thing that hinders their advantage, or the increase of their traffic and navigation: and if they should gain that trade to themselves, as is doubted is their desires and design, and is feared they will effect without a bank in England, and then it is believed it will be more profitable to them by trade, than all the West Indies is any way to the King of Spain; and if the English should lose that trade, as it hath been in great danger, then what need have we of merchant ships of burthen and force? and who would build any, having no employment for them? And if no employment for such shipping of force, through decay of trade, then in a short time what will become of the maritime power and strength of the English nation? For, besides the many advantages the Dutch will accrue to themselves by having the sole trade of East India, enriching their people many sundry ways,

This great prejudice they will do us,

We shall be weaker by so much shipping, and so many mariners as we might employ thither.

It will hinder those tradesmen, in their several professions, that furnish those ships that go to sea; as shipwrights, smiths, mast-makers, sail-makers, rope makers, &c., and diminish the trade of those materials.

It will hinder the vent of our native commodities, which those shipping would carry thither, which will impoverish our people that made those commodities.

It will hinder us of those commodities which that country doth afford, that we may have great need of; as, in time of war, of salt-petre to make gun-powder, so as we shall have no commodity from thence but what the Dutch will spare us at their own prices; which makes me remember a notable passage I have heard of the Dutch in India, where a ship of theirs arriving at a trading port in that country, laden with one only commodity, which they knew the place wanted, therefore set what price on it they pleased, which the townsmen refused to give them, and on the contrary held off buying the same, presuming they would take their offer for the commodity rather than go to another market, or lye in port with a great charge of men, victuals, and wages, to expect more, which the Dutch perceiving, resolved to prevent the townsmen of their delaying them, and yet also have their price, therefore immediately caused the one half of the commodity to be carried ashore, and there burnt in the sight of the townsmen, and then demanded as much for the remaining half as the whole would

have come to at the price they made, which the inhabitants were forced to give for the said half part rather than want the said commodity, fearing lest half the remaining part should be burnt also, and then must give as much for one quarter of it as they might have had the whole parcel for before any of it was burnt. Such is the force and power of trade where a useful commodity is wanting, and when engrossed into one hand.

But, besides the trade of India, it is too much felt how the English trade in Turkey is at this present; also in the east country, and at Hamburgh, to serve all Germany, and in all the Streights over, where the Dutch not only undersell us in their own, but in our native commodities, as cloth, tin, lead, &c., they buying these commodities of the English at the best hand, and cheapest season of the year; as cloth carried over to them rough and white, they dye and dress, and sell it, before we can ours dressed and shipped from hence; besides that, they sell made in Suffolk, and of their own making of English and Spanish wool mixed together. Also, they may buy our lead here, when the English merchants ship out least, at that time it is cheapest, and commonly riseth at the going out of Turkey ships, or at any herring season, which I have often known, to my cost, to rise from 11 to 12*l.* per fodder, to 14 or 15*l.* per fodder, and upwards, as at this day, which is about 20*l.* per cent difference, which, with the cheapness of freight in their own ships to what is paid in English, and saving insurance, by sending convoys with their fleets, enables them to undersell us abroad, and to have the preemption of foreign goods for returns, and raise the price of them upon us. So have they advantage of us every way, to the great discouragement of the English trade, and insensible weakening of the English power, which courses the English cannot take for want of stock, much of it lying dead, sometimes two or three years, and in danger oftentimes in a remote country, in unsold commodities, as at this day: and should they take up monies at interest, to prosecute such a trade, as the case now stands, it would suddenly and insensibly eat them out of their estates, which oftentimes is gained with long and toilsome labour and great hazard. On the contrary, the Dutch are herein enabled to raise good profit by the quickness of their returns, the largeness of their stock, which is increased by banks, and the continuance of their trades from one generation to another, and partly by lowness of money at interest, which is occasioned as I shall shew hereafter.

The like may be said of the trade in Russia, the east country, and other places, where the Dutch and we have trading together; they find ways to undermine us, to our great loss and discouragement, though few old traders consider the cause in all their lives. But I instance only in the two former trades, because they chiefly give employment to our warlike shipping trade.

Fourthly. Touching the reason of the Hollanders so great thriving in trade before us, may be these:

Their statesmen sitting at the helm, steering the affairs of their government, are many of them merchants in present trade, or have been bred so in their minorities, or by travel in other countries, or well grounded experience at home, have well understood the course of trade, whereby they are enabled the better (making the increase, protection, and encouragement of trade their chiefest care) to further it in their interest of state with other nations in all treaties, and therein make such provision for the furtherance thereof in their own behalfs, as may make most for their benefit and advantage, and prejudice and inconvenience of the other state, whom they can most prevail with and over-rule; so that their good management in foreseeing the benefits and inconveniences that may happen, is one main cause of their so admired flourishing condition, from so small beginnings: for who can give better advice in any trade than he that studies it, or is bred up in the same.

They have a custom, that when any of their tradesmen die, they divide their estates

equally among their children, whereby the youngest having equal education with the eldest, is, with his stock, capable of driving as good a trade as the eldest; by which means their estates in trade descend to their posterities, and also the rules, instructions, and many years experience and observations, that gained their parents their estates, and oftentimes the very same trades also, they having no lands to purchase, as other nations have.

But, on the contrary, it is the usual custom in England, when a tradesman dies that hath children, having raised his estate, to give mean portions to his younger sons, and make the eldest possessor of the greatest part of his estate, who addicts himself oftentimes to the pleasures of hunting, hawking, and such like pastimes, betaking himself wholly to a country life, where, either by increase of his charge, ill husbandry, or want of skill to manage his estate, which peradventure is thereby much impaired, therefore is usually desirous, if he have so much money left, to put his sons apprentice to learn trades to get their livelihoods: and when they are made freemen (if they did not miscarry before) are oftentimes as far to seek for a way to get their livings by, for want of stock to set up their trades, as their grandfather was before he gained their father's estate. But if the grandfather, who knew how to get that estate he left his eldest son, had also bred him up in his own trade, or in some other, he had been capable to instruct and inrich his children by it also; so as, instead of weakening the estate, it would have mightily increased on him, and have augmented the stock of the nation.

Their true and faithful making their manufactures without deceit, as cloth, sayes, serges, perpetuanaes, &c., and giving them their due contents, makes them the more serviceable, and their several goodness (by experience) being known abroad, causeth them to sell before those of the manufacture of England, that are made slight and unserviceable, wanting their due contents and goodness, which is not so well looked into as ought to be, according to the good laws provided in that behalf, which not only brings the English commodities into disgrace at market abroad, but is a great prejudice to the nation in general; by wanting vent for them, the makers striving daily to exceed each other in slight making; as cloth made of flocks mingled with wool, &c., that they may the sooner sell and afford them at the English merchant's low price, to which he is tied to buy, being guided by the Dutchman's low rate he sells of the same kind at market, contenting themselves, and thriving with the less profit, by selling much greater quantities abroad of several sorts of goods, and having quicker returns and greater stocks than the English; and so the Dutch have the pre-eminence in the sale of their manufactures before us, by their true making, to their very files and needles.

Their care and vigilancy over their traffic, in taking off and laying on impositions on sundry commodities, to quicken or dull them in their sale and price, as they see occasion to encourage their own manufactures, or hinder those of a foreign nation, for the better employment of their shipping and people, besides each merchant's particular correspondence with their respective factors or servants in the countries where they trade, in which they are also very dextrous in communicating certain and early advice, as well of the public as of their own private occurrences.

Their giving countenance and encouragement to new designs propounded to them for public good, which whets the invention, and occasions new discoveries, and the bringing in of many profitable and delightful arts and mysteries among them, the author never wanting his due reward, which is made good to him out of the public stock, none feeling the charge thereof, and is also preferred to such employment as his genius and capacity leads him unto, wherein he may be more profitable to himself and them, preferring such for their merit and encouragement, rather than others less deserving, for favour or sinister ends.

But their chief and most considerable way, by which they have brought themselves to what they are, is their profitable use of banks.

Fifthly. The benefit they have received by banks are these:

By the help thereof they have raised themselves from poor, distressed, to high and mighty states.

They have increased the general stock of their country so much, that they can, when they please, ingross the particular commodity of one country, and sell it again at their own price, in the same, or another that wants it.

They maintained wars many years with the King of Spain, and hired foreign soldiers, to save their own people in that war, and received in ready money (with which they paid their armies) the proceed of their utensils of war, and other commodities they sold their enemies, which they bought with imaginary money in banks, and so furnished the Spaniard with those things he wanted, for their own profit, which otherwise they knew another nation would else have done.

They have increased their trade, and thereby grown so rich and strong in shipping and marines that they forced the King of Spain to a peace with them.

To make their own terms with the King of Denmark.

To hold the King of France to such conditions as have not always pleased him.

To make war with the English at sea, to whom they there always yielded and acknowledged obedience and submission.

To rule over many petty kings and principalities in the East Indies, and other places where they have power to overcome them.

These are some of the benefits the Hollanders have received by increase of trade, occasioned by banks.

Sixthly. The prejudice we receive by their banks are these:

It brings down their interest of money to 3 or 4*l.* per cent. at which rate I know at present many thousand pounds there let out, in a parcel, in ready money, which the Dutch do often deliver by exchange for London, and there the same takers at interest out of the banks may let it out again in England at 6*l.* per cent., formerly at 8*l.* per cent.; and when the money is come into them again, it may be more than suspected that it is privately sent into Holland, both in silver and gold, some profit arising thereby, the latter being grown so dear, and both far more scarce in England than formerly, (little being of late imported to coin, for sundry reasons,) and so plentiful in Holland, that great payments have been made there in sterling money only, besides that concealed in their bank, which is a great hindrance to trade in England, by wanting so much stock as is so transported, and doth also impoverish this land.

Also, by their banks they may be furnished in England, by exchange, with ready money to buy the native commodities of the maker, at the first hand, and at the cheapest seasons of the year; as lead, tin, cloth, bays, says, serges, perpetuanaes, stockings, &c., having, as is suspected, their English packers at London, to buy such goods there for their accounts, and their agents residing in the countries and towns in England, where such manufactures are made, and there buy them cheaper of the maker himself for ready money, by about 10*l.* per cent. than the English merchants can do at London of such makers factors, to whom else he sends them, to sell for his account, the maker thereby saving factorage, and other charges and adventures, and making bad debts in sending such goods to sell at London, besides uncertainty in selling them for time, or ready money, and other troubles and casualties in returning the money into the country; for which reasons the maker had rather sell a better bargain by himself at home, receiving his ready money there to serve his occasions, than run the former uncertainties, by which help of banks, having money there at a low rate, the Dutch are enabled, and do undersell the English merchants at market in their own native commodities, to their great loss and discredit; and it is doubted that many English merchants also do colour such goods for them at the custom-house, having also understood that at this time English wool and fullers earth is too often carried from hence into Holland,

in the English men of war, such ships being never visited by the officers of the custom-house, which ought suddenly to be prevented, the Dutch being too well stored with those commodities, most of the wool of this year's growth in Kent being doubted already to be transported from, or near Dover, Rochester, &c., which are the back-doors out of which such commodities are suspected to be too often conveyed through connivance.

But if it be objected, that the English may also buy of the maker on the same terms: it may be answered, they want stock through deadness and decay of trade. But if it be replied, that they may then take up money at interest to do it: to which is answered, that if they have so much credit to do so, they must then give 6*l.* per cent. for it, besides procuring and continuance, and the Dutch hath it for about 3*l.* per cent., or under; which, with the cheapness of freight in their own ships, &c., doth enable them, notwithstanding, to sell out our native commodities for us abroad, cheaper than we can afford to sell them ourselves, and so secretly eat the bread out of our own mouths, and undermine and work us out of trade and employment of our own ships all the world over, being in the East Indies accounted much inferior to them.

By the help of banks they so much augment their stocks, that they set out so many hundred of busses, and other fisher-boats yearly, to catch herring and cod-fish in our seas, with which they serve all Christendom, to their incredible gains; and formerly our own nation, to our great loss, decay of our fishery, and many fishing-towns on the sea coast.

These inconveniencies we receive by their banks, and many other, there being none in England to countermine them, by which it may appear it is not altogether the raising of excise, or laying on impositions upon the commodities retailed and spent within ourselves, as is often suggested to be the cause of the present deadness of trade, but the mere advantage and undermining of the Dutch, with their great stocks, who always have also had a great excise charged upon the most part of the commodities spent within themselves, which caused the spender of such goods to pay dearer for them, they being enabled so to do by cherishing their foreign trade for the general good, in laying on small duties on the commodities transported, with other privileges and good orders to punish misdemeanors in trade, wherein they are as unmercifully just in the executing them without respect of persons, for the public good, as the English are too often unjustly merciful in sparing each other for private ends, to the general hurt.

Seventhly, The good we may do ourselves by banks, if settled in England, are many; for no nation yet ever made use of them, but they flourished and thrived exceedingly.

First, They will, by well ordering them, bring back the gold and silver which hath been drained out of this land by the Hollanders banks, and by other princes raising the value thereof in their dominions.

They will much increase the stock of this land, which will wonderfully increase all manner of trade, and will bring in that excellent transporting trade, and make England the staple of all foreign commodities, as Holland is at this time, and hath been since they had the use of banks, who have nothing considerable of their own growth and manufactures, yet have the staple of all commerce as a rich treasure, in money and jewells, all materials for shipping and war, all manner of cloathing, and the granary and vineyard of Europe, with which commodities they furnish most countries, which England may also do with much ease and profit, and make this land the staple for trade; for, by experience, our people are known to be as tractable in trade as any other nation, had they but stock, which is thought to be the only thing wanting, besides a few privileges in ports, to carry on that so much desired and profitable trade; and our land lies more convenient for it than any other, having the sea open on every side, and so many safe harbours to shelter shipping in foul weather, and so many convenient ports for landing of goods, from whence they may be transported with all winds, at all sea-

sons of the year; and the English mariners are as good as any be in the known world, and may have as good shipping to carry goods for as little freight, and may victual them as cheap as any other nation.

They will increase and much encourage the fishery of this nation, and breed up in that employment many thousand of seamen, which will find employment in the East Indies, Streights, and other voyages into other parts of the world, and will also increase and strengthen the decayed fisher-towns, and all other ports and havens along the sea coast.

They will increase the warlike trading shipping and mariners of this nation, which will much strengthen us against all our enemies.

They will also increase the revenues and customs of this land, by increase of trade.

They will wonderfully employ the poor of this land, and increase the natural manufactures thereof, and make us capable to buy or sell at home or abroad, with as much advantage as any other nation; whereas now, if any English merchant buy any foreign goods abroad, with the proceed of English goods there, and transport them for any place but England, he is in danger to lose by the voyage.

They will make the English capable to ingross the commodity of any country, and withhold it from another that may be at enmity with us, to whom the said commodity may be useful to our prejudice, and also make our own price of it.

They will encrease trade in our plantations, and cause ships to be built in New England, as good or better than any be built in Holland, to carry goods for as little freight, and will also encourage the making materials for shipping there, and will save our own timber here until a time of need, which should be preserved and increased as much as could be, having of late been much decayed and sold into Holland, as is much suspected.

They will furnish factors in England with credit to pay custom and charges of a great cargo of goods, which may on a sudden be consigned to them; for many times such English factors may be of a good estate and credit, yet have not always a great cash lying by them for such uses (though the Dutch are seldom without it) therefore may oftentimes be forced to strain their credit, to take up money at interest, or sell all, or part with such goods at under-rate for want thereof, which may be a great prejudice to themselves, and loss to their principals; and is believed, causeth many such great commissions to be carried from the English and consigners to the Dutch residing in England, to their great benefit and advantage, and loss and prejudice of the English nation.

They will increase trade in Ireland, which will people that island, and increase the revenues thereof.

They will furnish many young men with stock, that have, by their industry and well-spent time and travels in their apprenticeships, gained good experience in foreign traffic; but when they are come to be for themselves, wanting stock, friends, or credit to begin to trade with (being commonly younger brothers) are thereby much discouraged, and thinking to drive away such discontent, do oftentimes fall into bad company, and take ill courses, to the utter ruin of their hopes and fortunes, which otherwise might have made good commonwealths-men, which is the greatest reason why so few young men, among so many entertained, do come to good.

They will preserve many good men from failing and losing their credit; for, instead of losing by trade, they will, by the well regulating of it, be more certain of profit, and the quick and sure satisfaction of a debt by assignment in bank, will preserve many a good man's credit, which many times is impaired, though he may have a good estate out in trade beyond the seas, and cannot command it, or because he cannot receive his money where it is owing to him, to make payment where it is due; it being seldom

seen that any of the Dutch nation fail: And if any of them by losses do miscarry, being known to be industrious, are soon credited again with stock out of bank, or otherwise, to recover themselves again by trade.

And many others, which trial and experience will daily discover, as quick and easy, paying bills of exchange, foreign or domestic, and all other payments, preventing fraudulent payments in counterfeit and clipt coin, or mis-telling money, rectifying errors in accompts, which occasion law-suits, preventing theft, and breaking open houses where money is suspected to lie, and robbing on the highways graziers, carriers, or others that use to carry money from fairs, or other places, which may be returned by assignment in bank; whereas now the several hundreds in many places are forced to guard such as carry money for fear of their being robbed, and such hundred paying them the money they lost, as it hath often fallen out of late times, &c.

Eighthly. A bank is a certain number of sufficient men of estates and credit joined together in a joint stock, being, as it were, the general cash-keepers or treasurers of that place where they are settled, letting out imaginary money at interest at 2 and $\frac{1}{2}$ or 3*l* per cent. to tradesmen, or others that agree with them for the same, and making payment thereof by assignation, and passing each man's account from one to another with much facility and ease, and saving much trouble in receiving and paying of money, besides many suits in law, and other losses and inconveniences, which do much hinder trade; for oftentimes a merchant hath goods come from some place beyond the sea, which he is not willing to sell at the price current, knowing either that he shall lose by them, or that he hopes they will yield more in England, or some other country where there will be more need of them; therefore is desirous to keep them, and yet drive on his trade, which peradventure he cannot well do wanting stock, so much of it lying dead in the said commodity, therefore procures credit in the bank for so much as he shall have occasion for, at the rates aforesaid, and receives and makes payment thereof where he hath occasion for it, by assignment in bank. As, for example: The said merchant buys cloth of a clothier for 100*l.* value, more or less, and goes with him to the bank, where he is debtor so much money as he takes up, and the clothier is made creditor in account for so much as he sold for to the said merchant, then such clothier having occasion to pay money to a stapler or woolmonger, for wool he doth buy of him; so the said clothier is made debtor, and the woolmonger creditor in account: The said woolmonger hath bought his wool of a country farmer, and must pay him for it; so the woolmonger is made debtor, and the farmer creditor: The farmer must pay his rent to the landlord with the proceed of the said wool; so the farmer is made debtor, and such landlord creditor: The landlord for his occasion buys goods of a mercer, grocer, vintner, or the like; then he is made debtor, and such mercer or other tradesman, creditor; then peradventure such mercer, or other tradesman, buys goods of the same merchant that took up the first credit in bank, and stands yet debtor there; but upon sale of goods to the mercer, or other tradesman, both clear their account in bank, and such mercer, or other tradesman, is made debtor, and the said merchant creditor: Thus every man's account is cleared, and so in all trades, as occasion presents; which way, if it be thought fit to be settled for a trial at London, I verily believe will be found so convenient, and such an encouragement to trade, by increase of the stock of the land, and be such an ease to the people, that it will be soon desired that others might be also settled at Edinburgh for Scotland, at Dublin for Ireland, and in some other chief cities and shire towns in England, as York, Bristol, and Exeter, &c. for the furtherance of trade, by holding correspondence with each other, than which I do not apprehend or know any way better to equal the Dutch in trade, both at home and abroad, in buying and selling all sorts of commodities, and making quick returns, and also so much exceed them, as by far this land lies more convenient for trade than

theirs doth, and will also suddenly inrich the people, and increase and maintain the maritime power and strength thereof.

Lastly. To which may be added a court of merchants to be chosen every year, to end and determine all controversies arising from one merchant to another; for although such suits may be determined in the respective courts already established in England, yet the guilty adversary takes such advantage by appeals from one court to another, having oftentimes a considerable estate in his hand, the profit whereof in trade making him unwilling to part with it; therefore with the interest of it wageth law with the parties to whom it is truly due, to his great charge, wrong, and prejudice, if not utter undoing; and then at last it is oftentimes referred to good men that are merchants, and understand such matters and accounts better than many worthy lawyers do; but in case such a court be not approved to be settled, then the court of insurance sitting in the insurance office, who are yearly chosen, may have power to determine all such matters as they do causes of insurance, which will much quicken and encourage trade, to the inriching and strengthning the English nation.

And seeing a court of merchants is so necessary, what a glorious and honourable profession would it be, if your Highness's court were all merchants, and also your domestic servants every one adventuring so much stock as he could spare into other parts of the world, as well as to the East Indies (your Highness having been pleased lately to give so great countenance and encouragement to that company) which may easily be effected; for those that know not the way of trade may join in a stock, or come in a share with the experienced, until the ingenious have learned it themselves; for it is presumed there are but few but may spare something to venture, which may be a means to inrich themselves and their posterity; for it is well known that many servants, of both sexes, to private men in Holland, do improve their estates by having adventures in trade, which all your Highness's court would be soon invited unto by the profits they know any one hath received by first adventuring, which will also cause these benefits to ensue.

It will be an high example to the gentry of the land, as well the elder as the younger brothers, and their domestics to do the same, therein employing their minds, which oftentimes are busied in contentious suits in law, or unnatural contriving how to overreach and deceive one another.

It may make your Highness's court and domestics the most rich and flourishing of any potentate's in the world, and loath and hate unhandsome and dishonourable ways to inrich themselves; whereas in other princes courts, their necessities and covetousness doth inforce and induce them to buy and sell offices and places of trust, and making use of the time present (doubting their continuance, length of life, or change of affairs) to raise and inrich themselves by bribes, to beg or obtain suits of their prince, which may be to the general hurt, dishonourable for him to grant, or loss of the affections or good opinions of his people.

It will add to the reputation of the English, and cause them to be better esteemed and respected of the princes and subjects in the foreign countries where they reside and trade, and will increase the maritime power and strength of this nation by so much shipping as they will employ.

It may cause grievances in trade to be sooner heard and redressed, which is oftentimes hindered by a particular person to the general hurt, when the courtier as well as the private tradesman feels the evil thereof, which oftentimes, for want of being heard in due time, may continue unremedied or deferred till it be too late.

And divers other, tending much to the tranquillity of your Highness, and the welfare of the English nation, which, with your Highness's favourable encouragement, I shall, in all humility, be ready to make known unto you, and remove any objections

as can be alledged in the premisses, and propound a way how it may be effected, and the evils remedied and prevented, being unwilling to bury the talent in a napkin, which it hath pleased the Giver of all blessings, in his great goodness and mercy, to bestow upon me, hoping I shall not offend in tendering this with my best services to your Highness.

Certain Proposals for establishing a Bank at London, humbly offered by Samuel Lamb, of London, Merchant.

That the society of good men or governors that shall manage the bank, be chosen by the several companies of merchants of London, viz. East India, Turkey, Merchant Adventurers, East Country, Muscovy, Greenland, and Guinea companies, each company choosing out of themselves two or more of the most understanding and ablest members of each respective company, and when any of the said members, so chosen, do happen to die, then the said company, of which he was that died, to choose another in the room and stead of the deceased, from time to time; and when such members are chosen and met together, then they to choose to themselves two or more of the ablest merchants that trade chiefly or altogether for Spain, and the like who trade for France, Italy, and the West Indies, for each place two or more, as shall be thought fitting; and when any of them chosen that trade for the countries last named do die, then the major part of all the members together, chosen as before prescribed, may choose others from time to time trading to the said countries which he did that died, and when all these so chosen meet together, they may have power to make orders of their own approving or contriving, for the carrying on and managing of the work, and such a society, so dealing into all parts of the world, will well know most English merchants that trade into any part thereof, and thereby know whom to credit that have occasion, and by their knowledge will well understand how to govern the bank, and by the help there of countermine the Dutch in their designs in any port of the world, where they prejudice the English by their banks; for in any place where there is exchange of trade, they may lay a great stock to furnish the English with credit and ability to carry on their laborious and honest designs, and by this means may be carried on any great and notable enterprize; for which purpose, and that they may perform with every person that hath money in bank, and may preserve the credit thereof inviolable, and without the least blemish, they must keep their cash in a safe place from the danger of fire and other accidents, as the army treasures is in Guildhall, and so are the general treasurers and cash-keepers of most of the spare money of the place where they are settled; and most men will desire to have money there, that they may have credit in bank two or three times the value thereof; for he will not be thought to be of any estate or worth, that hath not some money in bank to procure credit there without trouble, against he have occasion for it.

That all be at liberty to bring in any money into bank or not, and if any that have money there, desire to have it again in kind, should have it at demand, the Dutch had rather have their money in bank than in their own keeping, accounting payment in bank better than any other by $\frac{1}{2}$ per cent. by their good and punctual payment.

That they allow such interest to the aged and widows that desire to have their money in bank, as shall be agreed unto, for and towards their maintenance.

That they let out imaginary money or credit, upon ticket, at $2\frac{1}{2}$ and 3*l.* per cent. at the most.

That all bills of exchange be received and paid in bank.

That the said chosen men do take a house near the Exchange for convenience of merchants resorting thither, and sit there such certain hours of the day to be appointed.

That the good men, who manage the bank, do make up their accounts at least once in every year.

That the profits of the bank go to the good men that manage the same, in lieu of their great care and pains, and defraying bank charges, and officers salaries, or so much as shall be thought fitting to be reserved toward the increase of the stock; and as the bank increaseth in credit, so the reservation to increase to augment the stock, but the stock always to remain whole and intire.

Or any other, or so many more that shall be thought fitting to be settled by act of parliament, therein declaring in what manner and by whom the same shall be managed and governed, granting power to such governors to choose officers, and make orders to carry on the work, and thereby also to be enacted, that none seize, molest, or disturb the bank, or violate the credit thereof, upon such great penalties as shall be thought fitting.

That the same bank may also furnish another bank with a competent stock, to let out any sum of money under 5 or 10*l.* at reasonable rates, upon pawns or other security; whereas now many poor people, to raise a small stock to get a living by, are forced to give intolerable rates, as about 6*d.* per week for the use of 20*s.*

And convenient orders would soon be contrived to carry on such a charitable work, if it be approved after trial made of the former bank described.

And such a society to be chosen every year, as is before proposed, with an able civilian joined with them, would be an excellent knowing committee, or court of merchants, to regulate and advance trade, and determine controversies therein arising, having incomparable correspondence together with all the world, by communicating every one's advice, knowledge, and experience to each other, having thereby knowledge of the transactions and occurrences of every country, and so knowing most men's dealings, and the accounts and trade of all places, and so the better enabled to judge of any matter coming before them, and contrive remedies for all grievances in trade for the advantage of the English nation.

Here follow the Remedies against the Evils observed in the Book.

A bank will hinder importing of goods in strangers ships, contrary to the act for increase of navigation, and daily entering such ships in Englishmen's names.

A bank will increase the general stock and trade, which will cause ships to be built for the English as cheap as any other nation can build any, to carry goods for as little freight into any country, which will cause them to be employed as soon or before any strangers ships, by all nations that have occasion, and then we need not fear entering their ships in Englishmen's names, so few in likelihood to come then for England.

A bank will prevent packers, or others that buy goods in England for Dutchmen's accounts, and colouring them under Englishmen's names at the custom-house, by cunning and fraudulent pretences, suspected to be now practised, notwithstanding the laws and penalties in force, and lately revived against such evils.

A bank will increase the general stock so much, that it will enable the English to buy for ready money as good and cheap, of the maker or otherwise, as any agents for any strangers can do, by which means the English will be enabled to sell abroad for as much profit, and at as low a price as any other nation can, of the like sort of goods, and cheaper, by saving strangers custom outwards, if such goods be fairly entered; and when they know the English have found the way to undersell them, and gain by it too, they will have but small encouragement to contrive ways to employ agents to buy any English goods in England, and ship them out for them; and when the makers of English manufactures find such quick vent for them, they will then strive as much to

excel each other in true making as now in slight making; this will bring English manufactures in good request again at market, and will cause the English to have the same advantage of the Dutch as the Dutch now have of them in buying foreign commodities, as in selling our own abroad, they growing so populous, their shipping so numerous, their stock and credit of their bank so great.

A bank in England will hinder transporting of English wool and fullers earth out of England.

A bank will increase the general stock and trade so much, that it will encourage and increase making the woollen manufactures in England, and employ not only the makers thereof now here, but invite those out of Holland that are gone thither already; for the great quantities that will be made at home, and afforded at easier rates than the Dutch can theirs of the same goodness, which will discourage the making any in Holland, so they will have no occasion for our wool and fullers earth, which is chargeable for them to obtain against a strict law, and the greater use there is of wool in England, will cause it to be dearer, so as will be impossible for the Dutch then to make any woollen manufactures, without great probability to lose by them, the English being so enabled to make cheaper of equal goodness, so if they have no use for wool, they will need but little fullers earth.

By which it may be plainly discerned, that the meer advantage the Dutch have of a bank, is the cause of the aforesaid and other evils, and of their gaining so much by our loss, and of all other nations that have not a bank; which I believe caused the King of France to raise the value of his coins, to hinder them carrying it out of his dominions; for in any place that hath no bank, where they carry any commodities, and sell them for ready money, how easily may they carry back the same money for a return, and put it into their own bank, and with a ticket of credit there buy other goods at home or abroad by exchange, and still make returns in money or prohibited goods, and so secretly beggar or impoverish any nation they so deal withal; and so by exchange they may charge vast sums in any country by credit in bank, and on a sudden, or by degrees, insensibly sweep away all the treasure out of any country, and then may easily overcome them, wanting stock to carry on such a war, and to buy such materials for war as may be wanted within themselves, which must be had from another country; but in a country where a bank is settled, and transportation of money forbidden, a law may be made to prevent this dangerous evil; for by so much as their general stock and shipping is greater than any other nation, so much more advantage have they of any such nation as have not a bank, to ruin them with greater expedition, and may secretly lay a plot to do it at pleasure; and may it not be so with England, when her mariners and shipping are decayed, by permitting goods to be imported daily in strangers ships, as now are, contrary to the act for increase of navigation.

It may be objected, that rich men will not bring their money into bank for these two reasons:

First, Because they will not discover their estate so much, which will cause great taxes to be laid on them.

Secondly, That in a monarchical government the supreme governor may seize or borrow the money in bank, to carry on that public design, so the money may not be returned again into the bank, which will ruin the credit thereof, and undo such as have estates therein.

To the first it is answered, That if rich men will not bring in their money into bank, then those that desire to be rich will, for their conveniency and ease to attain riches.

Also, those that would be thought to be rich will, for the same reasons, and both to gain, support, and increase their credit.

To the second, it is hoped that his Highness the Lord Protector (to further so good a work) will be pleased to consent to a law to be made as aforesaid, that no supreme governor may seize, molest, or disturb the bank, upon any occasion whatsoever, under a great penalty.

That till a bank be settled, and take such effect as is hoped it may, to remedy the evils before mentioned, that a capable honest person be appointed by his Highness the Lord Protector to reside at London, to take account of the entries of all ships there, and also to take care that no strangers ships be entered, as now daily are, contrary to the act for increase of navigation; and that the said officer do oversee and keep account of all the entries of all ships in all other ports throughout England, and also prevent, as much as may be, transporting English wool and fullers earth, and entering strangers goods in Englishmens names, which is a great prejudice to the English nation, and the said officer to have such fitting salary allowed him by the commissioners of the custom-house as shall be appointed, or such other allowance to be paid by the master of each ship (as formerly they did, and do now desire to do without charge to the state,) according to a table of fees as was usually paid by them before Colonel Harvy was a commissioner.

A Postscript.

It is objected, that the East India company, trading into the East Indies, is unprofitable to the English nation, because they send out of England so much money thither to drive that trade, that it hath wasted the English coins, and impoverished the land.

It is answered, that if the Dutch do not disturb the English in that trade, it is probable they may be furnished, from their factory at Cormanteen on the Gold Coast in Guiney, and from China, with gold enough, also from Japan with silver, to carry on that trade, as the Dutch themselves do, and then there will be no occasion to send any out of England to the prejudice thereof.

But admit the said company should have occasion yearly to transport foreign coins thither out of England, they should but imitate the painful husbandman, who sows his seed in the ground, that he may reap it again with advantage in the harvest, when the earth liberally returns her grateful crop. For admit they send out of England into East India to the value of 1000*l.* in silver, gold, or both, which there they invest into the commodities of that country, as indico, spice, callicoes, salt-petre, drugs, &c.; and when the said commodities do arrive in England, which cost the company the said 1000*l.*, in probability they may yield here about 2000*l.*, clear of all charges, which the said company, or other merchants that buy that commodity of them, do send into Spain, in time of peace, Italy, or other countries (for England cannot spend all that they bring in;) and when the said commodities are there sold, peradventure the said 2000*l.* worth may yield about 3000*l.* ready money, which from thence hath been usually brought into England for returns in specie; so that, instead of the 1000*l.* transported, about 3000*l.* is imported, and so proportionably for a greater or lesser sum, to the great profit and advantage of England, besides the employment of so much warlike shipping as they send thither, maintaining many trades belonging thereunto, the increase of so many mariners as they breed up and employ in that shipping, and the vending English manufactures, and return of others, employing many trades here, and increase of the revenues and customs. For,

It is presumed, that that nation which hath most warlike shipping and mariners will command in chief at sea; and he that commands the sea may command trade, and he

that hath the greatest trade will have the most money, which is of such value that it doth command all worldly things, both in war and peace.

In the former, besides the procuring all necessaries thereunto, how many garrisons hath it opened and relieved? how many battles hath it helped to win? and what secrets hath it not discovered out of the inwardest counsels of great princes?

In the latter, as it doth maintain commerce, so the want of it doth decay it, as sad experience doth manifest in England, since there hath been so little left, and so much transported, as may appear by the great payments in Holland in half-crowns, and there and in France in 20 and 22*s.* pieces, that now at London 20*s.* in gold will cost 22*s.* in silver, and that little silver that is remaining and passing in the countries, so clipt and filed, that most of it wants near a fifth penny in weight.

And as money is the sinew of war, so doth it appear to be the life of trade, all commodities being valued by it, and in both as useful in the body politic as blood in the veins of the body natural, dispersing itself, and giving life and motion to every part thereof; so that the preservation and increase thereof doth speedily deserve the serious and grave consideration of the highest authority in England; for as the case now stands, who will import any bullion into England to coin, when they may have a better price for it in another country? and if any be imported, who will sell it to the mint, while it is lawful for the goldsmiths or any other to give a better price for it than the mint can? and when the goldsmiths have bought it, do they not sell it again to transporters or others, to work into manufactures, as gold and silver spangles, wire, &c., which is no small consumption yearly in such trades? so that little is minted to increase the coins, but, on the contrary, it is suspected to be diminished, by culling out the heaviest money to work into plate, and the like manufactures above mentioned.

By which it may appear that the East India company have not wasted, but rather increased the English coins; for they use none of it to transport in any manufactures, and if they had sent any so far off, it would not have been had again so plentifully in the same kind in our neighbour countries as now it is.

But it may be suspected, that the common transporters of bullion out of England do raise this report to keep themselves from suspicion, while they secretly make it their trade to send it away, till it be so near consumed, through want of a fitting course to cause the bringing of it in, and good laws to prevent carrying it out, and care in executing them; for how easily may the intent of many of our laws of light penalty be abused by any that is resolved to break them, without they were made more severe, especially in matters of so great concernment; it being accounted a great scandal to any of credit to inform against any that breaketh them, though it be never so much to the prejudice of the whole nation; and if a needy person do it, a small bribe in hand, with a few fair promises of friendship, will easily take him off the troublesome and chargeable prosecuting for his proportion due to him by the law so broken.

And, to avoid this charge and danger, how many do purposely employ their confidents (who may, peradventure, be concerned in the same breach) to make or enter an information of the matter only, and there cease, resolving not to prosecute any further, lest he endanger his own or his friend's safety, and this may be done beforehand, only to prevent any that shall really attempt to inform of it afterwards; besides the practice suspected to be now used, to employ Dutch shipping as much as ever to bring home Spanish goods, by colourably making bills of sale of them in trust to the freighters, to secure them against the act for increase of navigation.

But in a good government of trade these inconveniencies may be prevented, according as occasion requireth, and restrain that too much freedom in trade by some desired, which is the way to destroy all trade, and bring in confusion. For,

As discipline in arms, so government in trade preserves good orders, and prevents

confusion, for which purpose armies are divided into regiments, troops, and companies, squadrons and divisions; and, to keep them in better order, they have by-laws distinct and apart from the standing laws of the country, for which they serve; so in trade, the merchants of London, trading in several parts of the world, are divided into several companies, who respectively have by-laws and orders among themselves, for their better government, in which capacity they are best able to understand what quantities of commodities are sent to the place where they trade, and knowing how much will vent, may accordingly supply the market at reasonable rates and modest profit, with so much as is necessary, that neither by sending too little of English manufactures, as by their scarcity to advance the price at too dear a rate, thereby causing the buyers to learn and endeavour to make themselves of the same kind at a lower price, or have them from another country, which may, in the end, hinder making them in England, if not totally ruin the trade to that place, nor, by sending more than can be uttered, to clog the market, as in former ages, till prevented, and so disparage and undervalue the English manufactures, to the merchants loss, by dishonourably offering them to sale in shops, at an under rate, as hath lately happened in Holland, with other inconveniencies, since some have taken too much liberty to interlope in the trade of the Merchant Adventurers Company; and as their ancient continuance in a thriving condition commends their good orders and government, so the ratifications and confirmations of their privileges by several princes and authorities, since their first institution, (not without much opposition,) declares the necessity of their incorporation, for their better government and venting English draperies.

But as for foreign commodities transported, or such native commodities as are no where else to be had of the same kind but from England, the more is gained by them, the more the merchants are inriched in recompence of their painful labours and dangerous adventures, and consequently the whole nation; for, besides the danger of the seas, they many ways run great adventures by bad debts, embargoes, &c., giving more credit generally in goods to other nations than they do to us.

In this the Dutch are a good example to us, who have served almost all Europe with East India commodities, to their great profit and advantage, having much of them chiefly in their own hands, as nuts, cloves, mace, and cinnamon, bringing such quantities hom[illegible] by their experience they guess will yearly serve this quarter of the world, an[illegible]he market therewith as their ruling price: And by their late practice at Bantam, in [illegible]ng three English ships there with their loading, peaceably trading th[illegible]her, it may be suspected they intend to get all the pepper also into their hands, if [illegible]ot the whole East India trade, and then we may be weakened by so many ships an[illegible] mariners as may be employed thither, they well knowing how advantageous that trade may be to us, being so prudently managed as now it is, that thereby we may be able, not only to serve ourselves with those commodities, but other nations also, on as good terms as themselves.

Moreover, the orderly management of trade by companies will make an easier discovery yearly, which exceeds the import or export; which, in a confused trade, not incorporated, is not so soon discerned as in the trade with Spain at this time, by importing such great quantities of fruits and wines at a dear rate, to the enriching of our enemies, and exporting so few English manufactures (and those sold at a low rate, and which the Spaniards have prohibited since the wars,) that instead of bringing bullion thence for returns from Cales and St Lucar, it is carried thither, as is suspected, into his dominions, to pay for part of those commodities at Malaga, &c., to the impoverishment of ourselves.

For where the foreign goods imported exceed the native exported, the balance must be made up with money transported, or by exchange, which is a loss to the nation, not only by the money so transported, but by the want of vent of so much native

commodities, as should be exported to answer the value of those imported, which may be compared to a man having an estate of 1000*l.* per annum, and spends yearly above it.

As the affairs of princes do alter and change according to time and advantage, so doth the course of trade; and, the better to inspect the course of trade, some princes, in tender care thereof, have an officer residing in their courts, to give an account yearly thereof, as hath been done formerly in England, or so often as called thereunto, and as occasion requireth, and also to hear complaints, and move for redress in the merchants just grievances, making it his business to intercede for them at convenient opportunities, without making way by a favourite with a chargeable reward; for where many men are interested in one matter, it is oftentimes known to miscarry through neglect, which makes good the saying, "That every man's business is no man's business."

Besides which, if it be thought fitting that such a council for trade, of merchants exercised therein, with some statesmen or civilians conjoined, as in my foregoing proposals is described, they may, with God's blessing on their endeavours, regulate and restore trade, by preparing and settling (if impowered thereunto,) such fitting remedies for all grievances therein, as may exceedingly enrich and advantage the whole nation.

By settling and managing a bank, not only for the usefulness, but rather necessity thereof, as is before related, and also to countermine the Dutch in their governing the price of exchanges by the power of their banks, to the great prejudice of the English, who with a bank may rule it as well as they.

To hear and have power to determine controversies arising among merchants in matters of trade.

To report their opinions whether it be needful to raise the value of the English coins, equal or above the rate of what they are in our neighbour countries, or contrive other ways to encourage the bringing of them in again, and set the mint to work.

To consult about strengthening the laws against transporting bullion, English wool, and fuller's earth, the law for increase of navigation, and all other laws concerning trade, and put them in effectual execution.

To strengthen the privileges of the respective companies of merchants already established, and, if it be thought fit, to incorporate the merchants trading respectively into several countries, not yet incorporated.

To find out a way for better vent of raw silk and other commodities imported, which much employs many people besides silk-weavers, whose families are much impoverished for want of employment, by the importation of much ribboning out of France since the peace.

And many other for encouragement of trade besides what is before mentioned, which they may discover to be advantageous to the whole nation, and do deserve to be enlarged by a more skilful hand.

Printed at the authors charge, for the use and benefit of the English nation, and to be considered of and put in execution, as the high court of parliament in their great wisdoms shall think fit.

January 27th, 1659.

A Time-serving Speech, spoken once in Season, by a worthy Member of Parliament, and now thought fit to be re-printed, to prevent the occasion of having it re-spoken.

Printed in the year 1680.

Richard Cromwell had no sooner convoked his parliament, than he had immediate experience of their intractability. Instead of proceeding in the foreign affairs recommended to their consideration, they began, without loss of time, to canvass the present state of the constitution, and the rights of that assembly which Cromwell wished to be considered as a house of lords.—"Upon this argument they exercised themselves with great license, as well as upon the creator of those peers, and the power of the late protector, as upon his creatures the peers; of whose dignity they were not tender, but handled them according to the quality they had been of, not that which they were grown to. They put the house in mind how grievous it had been to the kingdom that the bishops had sat in the house of peers, because they were looked upon as so many votes for the king, which was a reason so much stronger against these persons, who were all the work of the protector's own hand, and therefore could not but be entirely addicted and devoted to his interest. They concluded that they could not, with good consciences, and without the guilt of perjury, ever consent that that other house should have any part in the government, since they had all taken the engagement that there should be no more any house of peers, and since the office of protector had been, and might still continue, without it."—CLARENDON, III. 514.

After many debates, the protector's party were strong enough to carry through, with difficulty, a vote recognizing the authority of the other house. The following *time-serving* (by which we are here to understand seasonable) speech seems to have been delivered on this occasion, and must have had considerable weight.

Mr Speaker,

This day's debate is but too clear a proof that we Englishmen are right islanders, variable and mutable like the air we live in; for (sir) if that were not our temper, we should not be now disputing, whether, after all those hazards we have run, that blood we have spilt, that treasure we have exhausted, we should not now sit down just where we did begin, and, of our own accords, submit ourselves to that slavery which we have not only ventured our estates and lives, but, I wish I could not say, our souls and consciences, to throw off. What others (sir) think of this levity, I cannot tell, I mean those that steer their consciences by occasions, and cannot lose the honour they never had; but truly (sir) for my own part, I dare as little not declare it to be my opinion, as others more prudential dare avow it to be theirs, that we are this day making good all the reproaches of our enemies, owning of ourselves oppressors, murderers, regicides, subverters of that which now we do not only acknowledge to have been a lawful government, but by recalling it, confess it now to be the best, which (sir) if it be true, and that we now begin to see aright, I heartily wish our eyes had been sooner open, and for three nations sake, that we had purchased our conviction at a cheaper rate. We might (sir) in forty-two, have been what we thus contend to be in fifty-nine, and

our consciences have had much less to answer for to God, and our reputations to the world.

But, Mr Speaker, I wish, with all my soul, I did state our case to you amiss, and that it were the question only, whether we would voluntarily relapse into the disease we were formerly possessed with, and of our own accords take up our old yoke, that we with wearing and custom had made habitual and easy, and which (it may be) 'twas more our wantonness than our pressure that made us throw it off. But this (sir) is not now the question: that which we deliberate is not, whether we will say we do not care to be free, we like our old masters, and will now be content to have our ears bored at the door posts of their house, and so serve them for ever; but (sir) as if we were contending for shame as well as servitude, we are carrying our ears to be bored at the doors of another house; a house (sir) without name, and therefore it is but congruous it should consist of members without family; a house that inverts the order of slavery, and subjects it to our servants; and yet, in contradiction to scripture, we do not only not think that subjection intolerable, but are now pleading for it. In a word, sir, it is a house of so incongruous and odious a composition and mixture, that certainly the grand architect would never have so framed it, had it not been his design as well to shew to the world the contempt he had of us, as to demonstrate the power he had over us.

Sir, that it may appear that I intend not to be so prudent (as far as my part is concerned) as to make a voluntary resignation of my liberty and honour to this excellent part of his late highness's last will and testament, I shall crave, sir, the leave to declare, in a few particulars, my opinion of this other house, wherein I cannot but promise myself to be favourably heard by some, but patiently heard by all; for those Englishmen that are against this house will certainly, with content, hear the reasons why others are so too; those courtiers that are for it, give me evidence enough to think that in nature there is nothing which they cannot willingly endure.[1]

First, sir, as to the author and framer of this house of peers, let me put you in mind, it was he, that with reiterated oaths, had often sworn to be true and faithful to the government without it, and not only sworn so himself, but had been the chief instrument both to draw and compell others to swear so too. So, sir, that the foundation of this noble fabric was laid in perjury, and was begun with the violation and contempt as well of the laws of God as of the nation. He, sir, that called monarchy antichristian in another, and indeed made it so in himself; he that voted a house of lords dangerous and unnecessary, and truly made it so in his partisans; he that with fraud and force deprived you of your liberty when he was living, and entailed slavery upon you at his death; 'tis he, sir, that hath left you these worthy overseers of that his last will and testament; who, however they have behaved themselves in other trusts, we may be confident they will endeavour faithfully to discharge themselves in this. In a word, sir, had this other house no other fault but its institution and author, I should think that original sin enough for its condemnation; for I am of their opinion that think, that for the good of example, all acts and monuments of tyrants are to be expunged and erased, that, if possible, their memory might be no longer lived than their carcasses; and, the truth is, their good laws are of the number of their snares, and but base brokage for our liberty.

But, sir, to impute to this other house no other faults but its own, you may please, in the first place, to consider of the power which his highness hath left it, according to that humble petition and advice, which he was pleased to give order to the parliament to present unto him: for, sir, as the Romans had kings, so had his highness parliaments amongst his instruments of slavery; and I hope, sir, it will be no offence for

[1] The freedom of this language respecting Oliver Cromwell, argued a very short date to the authority of his son.

me to pray that his son may not have them so too. But, sir, they have a negative voice, and all other circumstances of that arbitrary power which made the former house intolerable; only the dignity and quality of the persons themselves is wanting, that our slavery may be accompanied with ignominy and affront. And now, Mr Speaker, have we not gloriously vindicated the nation's liberty? Have we not worthily employed our blood and treasure to abolish that power that was set over us by the law, to have the same imposed upon us without a law? And, after all that sound and noise we have made in the world of the people's legislative power, and of the supremacy and omnipotency of their representatives, we now see there is no more power left them but what is put in the ballance, and equalled by the power of a few retainers of tyranny, who are so far from being of the people's choice, that the most part of them are only known to the nation by the villainies and mischiefs they have committed in it.

In the next place, sir, you may please to consider that the persons invested with this power, are all of them nominated and designed by the lord protector, (for to say, by him and his council, hath, in effect, no more distinction, than if one should say, by Oliver and Cromwell.) By this means the protector himself, by his own and his peers negative, becomes, in effect, two of three estates, and, by consequence, is possessed of two parts of the legislative power. I think this can be a doubt to no man, that will but take the pains to read over that fair catalogue of those noble lords; for certainly no man that reads their names can possibly fancy for what other virtues or good qualities such a composition should be made choice of, but only the certainty of their compliance with whatsoever should be enjoined them by their creator. (Pardon, sir, that name, for 'tis properly applicable, where things are made of nothing.) Now, sir, if in the former government increase of the nobility was a grievance, because the new nobility, having fresh obligations to the crown, were the easilier led to compliance with it; and if one of the main reasons for exclusion of the bishops out of the house of lords was because that they, being of the king's making, were, in effect, so many certain votes for whatever the king had a mind to carry in that house, how much more assured will that inconvenience now be when the protector, that wants nothing of the king, but, in every sense, the title, shall not only make and nominate a part, but of himself constitute the whole house? In a word, sir, if our liberty was endangered by the former house, we may give it lost in the other house; and it is, in all respects, as advantageous and secure for the liberty of the nation, which we come hither to redeem, to allow this power and notion to his highness's officers, or council, nay, his very chaplains, as to his other creatures and partisans in his other house.

Now, having considered, sir, their author, power, and constitution, give me leave to make some few observations, though but in general, of the persons themselves that are designed to be our lords and masters; and let us see what either the extraordinary quality or qualifications are of these egregious legislators, which may justify their choice, and prevail with the people to admit them, at least, into equal authority with the whole representative body of themselves. But what I shall speak, sir, of their quality, or any thing else concerning them, I would be thought to speak with distinction, and to intend only of the major part. For I acknowledge, Mr Speaker, the mixture of this other house to be like the compositions of apothecaries, who are used to mix something of relish, something grateful to the taste, to qualify their bitter drugs, which else, perchance, would be immediately spit out, and never swallowed. So, sir, his highness, of deplorable memory to this nation, to countenance as well the want of quality as honesty in the rest, hath nominated some against whom there lies no other reproach, but only that nomination; but not, sir, out of any respect to their qualities, or regard to their virtues, but with regard to the no quality, to the no virtues of the rest, which truly, Mr Speaker, if he had not done, we could easily have given a more express name to his other house than he hath been pleased to do: for we know a

house designed only for beggars and malefactors is a house of correction, and termed so by your law. But, Mr Speaker, setting those few persons aside, who, I hope, think the nomination a disgrace, and the ever coming to sit there a much greater, can we, without indignation, think on the rest? He that's first in their roll,[1] a condemned coward, one that, out of fear and baseness, did once what he could to betray your liberties, and does now the same for gain. The second, a person of as little sense as honesty, preferred for no other reason but his no worth, his no conscience, except that his cheating his father of all he had was thought a virtue by him, who, by sad experience, we find hath done as much for his mother, his country. The third, a cavalier, a presbyterian, an independent; for a republic, for a protector, for every thing, for nothing, but only that one thing, *money*.[2] 'Twere endless to run through them all; to tell you, sir, of their lordships of seventeen pound land a year of inheritance; of their farmer lordships, draymen lordships, cobler lordships, without one foot of land but what the blood of Englishmen hath been the price of; these, sir, are to be our rulers, these the judges of our lives and fortunes; to these we are to stand bare, whilst their pageant-stage lordships deign to give us a conference upon their breeches. Mr Speaker, we have already had too much experience how insupportable servants are when they become our masters: all kind of slavery is miserable in the account of all generous minds; but that which comes accompanied with scorn and contempt, stirs every man's indignation, and is indured by none whom nature does not intend for slaves as well as fortune.

I say not this, Mr Speaker, to revile any man with his meanness; for I never thought either the malignity or indulgence of fortune to be (with wise or just men) the grounds either of their ill or their good opinion. Mr Speaker, I blame not in these men the faults of their fortune any otherwise but as they make them their own. I object to you their poverty, because it is accompanied with ambition; I mind you of their quality, because they themselves forget it; so that 'tis not the men I am angry with, but with their lordships; not with Mr Barkstead,[3] or Mr Gaoler, (titles I could

[1] Nathaniel Fiennes, one of the leading persons in the so-named house of lords, was tried by a court-martial under direction of the Earl of Essex, for the surrender of Bristol to Prince Rupert, and condemned to lose his head; and though he was pardoned by the general, yet he was never afterwards employed in any military office.

[2] The third seems to be Lord Broghill, much trusted by Cromwell, although supposed originally to have been attached to the cause of Charles I.

[3] "Colonel Barkstead, then Sir John, now Lord Barkstead, some time a goldsmith in the Strand, [illegible] no great value, went out a captain to Windsor Castle; was sometime governor of Reading; got at length [illegible]e a colonel, then made lieutenant of the Tower by the old parliament. The Protector, (so called,) finding [illegible]n fit for his turn, continued him there, and also made him major-general of Middlesex in the decimating b[illegible]ness, and assistant to major-general Skippon, in London. He is one to the life to fulfil the Protector's desires, whether right or wrong, for he will dispute no commands, nor make the least demur, but, in an officious way, will rather do more than his share. His principles for all arbitrary things whatsoever being so very thorough, let friends or foes come to his den, they come not amiss, so he gets by it; yea, rather than fail, he will send out his armed men to break open other men's houses, and seize their persons, and bring them to his jail, and then, at his pleasure, turns them out. He hath erected a principality in the Tower, and makes laws of his own, and executes them in a martial way over all comers, so that he hath great command, and makes men know his power. He was of the latter parliaments; is one of the commissioners, like the bishops' panders in the king's days, for suppressing truth in the printing presses, an oppression once the army so greatly complained of. Is, for sanctuary, gotten in to be a member of Mr Griffith's church; is also knighted after the new order; and, the better to carry on the Protector's interest among the ear-bored slavish citizens, is lately become an alderman; so that he hath advanced his interest and revenue to purpose. His titles and capacities emblazoned, will sufficiently argue his worth and merits, and speak him out fully to be a man of the times, and every way deserving to be yet greater, and, Haman-like, to be set higher. All which considered, it would seem a wrong not to have taken him out of the house, and made him a lord of the other house, with a negative voice there as well as where he is; the rather, for that he knows so well how to exercise it, having used it so long a season, as likewise that he may obstruct and hinder whoever shall question or desire justice against him for his wicked designs."—*Second Narrative, &c. III.* 460.

well allow him,) but with The Right Honourable, our singular and good Lord Gaoler. 'Tis this incongruity, Mr Speaker, I am displeased with.

So, sir, that though we easily grant poverty and necessity to be no faults, yet we must allow them to be great impediments in the way of honour, and such as nothing but extraordinary virtue and merit can well remove. The scripture reckons it among Jeroboam's great faults, that he made priests of the meanest of the people; and sure it was none of the virtues of our Jeroboam (who hath set up his calves too, and would have our tribes come up and worship them) that he observed the same method in making of lords.

One of the few requests the Portugals made to Philip the Second of Spain, when he got that kingdom (as his late highness did this) by an army, was, That he would not make nobility contemptible, by advancing such to that degree whose quality or virtue could be no way thought to deserve it. Nor have we formerly been less apprehensive of such inconveniences ourselves. It was in Richard the First's time one of the bishop of Ely's accusations, that castles and forts of trust he did *obscuris et ignotis hominibus tradere*, put in the hands of obscure and unknown men; but we, Mr Speaker, to such a kind of men are delivering up the power of our laws, and in that the power of all.

In the 17th of Edward IV. there passed an act of parliament for the degrading of John Nevil, Marquis Montagu and Duke of Bedford. The reason expressed in the act, Because he had not a revenue sufficient for the maintaining of that dignity; to which was added, That when men of mean birth are called to high estate, and have no livelihood to support it, it induceth briberies, extortions, and all kinds of injustices that are followed by gain. And in the parliament of 2 Carol. the peers, in a petition against Scotish and Irish titles, told the king, That 'tis a novelty without precedent, that men should possess honours where they possess nothing else; and that they should have a vote in parliament, where they have not a foot of land. But if it had been added, sir, Or have no land but what is the purchase of their villainies, against how many of our new peers had this been an important objection? To conclude, sir, it hath been a very just and reasonable care, amongst all nations, not to render that despised and contemptible to the people, which is designed for their reverence and their awe; which, sir, bare and empty title, without quality or virtue, never procured any man any more than the image in the fable made the ass adored that carried it.

After their quality, give me leave, sir, to speak a word or two of their qualifications, which certainly ought, in reason, to carry some proportion with the employments they deserve themselves. The house of lords, sir, are our kings hereditary great councils; they are the highest court of judicature; they have their part in judging and determining of the reasons of making new laws, and of abrogating old. From amongst them we take our great officers of state: they are commonly our generals at land, and our admirals at sea. In conclusion, sir, they are both of the essence and constitution of our old government; and have, besides, the greatest and noblest share in the administration. Now certainly, sir, to judge according to the dictates of reason, one would imagine some small faculties and endowments to be necessary for the discharging of such a calling; and those such as are not usually acquired in shops and warehouses, nor found by following the plough. Now, what other academies most of their lordships have been bred in but their shops, what other arts they have been versed in but those which more require good arms and good shoulders than good heads, I think, Mr Speaker, we are yet to be informed. Sir, we commit not the education of our children to ignorant and illiterate masters; nay, we trust not our very horses to unskilful grooms. I beseech you, sir, let us think it belongs to us to have some care into whose hands we commit the management of the commonwealth; and if we cannot have persons of birth and fortune to be our rulers, to whose quality we would willingly submit,

I beseech you, sir, for our credit's and safety's sake, let us seek men (at least) of parts and education, to whose abilities we may have some reason to give way. If, sir, a patient dies under a physician's hand, the law esteems that not a felony, but a misfortune in the physician; but if one that is no physician undertakes the management of a cure, and the party miscarries, the law makes the empiric a felon, and sure, in all men's opinions, the patient a fool. To conclude, sir, for great men to govern, 'tis ordinary; for able men, 'tis natural: knaves many times come to it by force and necessity, and fools sometimes by chance; but universal choice and election of fools and knaves for government was never yet made by any who were not themselves like those they chose.

But, methinks, Mr Speaker, I see ready to rise after me some gentlemen that shall tell you the great services that their new lordships have done the commonwealth; that shall extol their valour, their godliness, their fidelity to the cause; the scripture too, (no doubt,) as 'tis to all purposes, shall be brought in to argue for them; and we shall hear of the wisdom of the poor man that saved the city, of the not many wise, not many mighty; attributes I can no way deny to be due to their lordships. Mr Speaker, I shall be as forward as any man to declare their services, and acknowledge them; though I might tell you, that the same honour is not purchased by the blood of an enemy and of a citizen. That for victories in civil wars, till our armies march through the city, I have not read that the conquerors have been so void of shame as to triumph. Cæsar, not much more indulgent to his country than our late protector, did not so much as write public letters of his victory at Pharsalia, much less had days of thanksgiving to his gods, and anniversary feasts for being a prosperous rebel, and given justice and his country the worst.

But, sir, I leave this argument, and, to be as good as my word, come to put you in mind of some of their services, and the obligation you owe them for the same. To speak nothing, sir, of one of my lords commissioners valour at Bristol, nor of another noble lord's brave adventure at the Bear-Garden;[1] I must tell you, sir, that most of them have had the courage to do things, which (I may boldly say) few other Christians durst have so adventured their souls to have attempted: They have not only subdued their enemies, but their masters that raised and maintained them; they have not only conquered Scotland and Ireland, but rebellious England too, and there suppressed a malignant party of magistrates and laws: And, that nothing should be wanting to make them indeed compleat conquerors (without the help of philosophy) they have even conquered themselves. All shame they have subdued as perfectly as all justice. The oaths they have taken they have as easily digested as their old general could himself: Public covenants and engagements they have trampled under foot. In conclusion, so entire a victory they have over themselves, that their consciences are as much their servants as, Mr Speaker, we are.

But, sir, give me leave to conclude with that which is more admirable than all this, and shews the confidence they have of themselves and us: After having many times trampled on the authority of the house of commons, and no less than five times dissolved them, they hope for those good services to the house of commons, by the house of commons to be made a house of lords.

I have been over long, sir, for which I crave your pardon; therefore, in a word, I conclude. I beseech you let us think it our duty to have a care of two things: First, that villainies be not encouraged with the rewards of virtue. Secondly, that the au-

[1] When Colonel Pride was Lord High-sheriff of Surrey, he shut up the Bear-Garden, and put to death the bears which were kept there for the public amusement, these sports being held antichristian. This rigour seems to be alluded to in Hudibras, where the knight attempts a similar adventure with indifferent success, and it is the subject of a very lively tract in the Harleian Miscellany.

thority and majesty of the government of this nation be not defiled and exposed to contempt, by committing so considerable a part of it to persons of as mean quality as parts.

The Thebans did not admit merchants into government, till they had left their traffic ten years: Sure 'twould have been long before coblers and dray-men would have been allowed. If, sir, the wisdom of this house shall find it necessary to begin where we left, and shall think we have been hitherto like the prodigal, and that now when our necessities persuade us, *i. e.* that we are almost brought to herd it with swine, now 'tis high time to think of a return: Let us, without more ado, without this motley mixture, even take our rulers as at the first, so that we can be but reasonably secured to avoid our counsellors as at the beginning.

Give me leave, sir, to release your patience with a short story Livy tells us: "There was a state in Italy, an aristocracy, where the nobility stretched their prerogative too high, and presumed a little too much upon the people's liberty and patience; whereupon the discontents were so general and so great, that they apparently tended to a dissolution of government, and the turning of all things into anarchy and confusion. At the same time, beside these distempers at home, there was a potent enemy ready to fall upon them from abroad, that had been an over-match for them at their best union, but now in these disorders, was like to find them a very ready and very easy prey: A wise man, sir, in the city, that did not at all approve of the insolency of the nobility, and as little liked popular tumults, bethought himself of this stratagem to couzen his country into safety. Upon a pretence of counsel, he procured the nobility to meet altogether; which, when they had done, he found a way to lock all the doors upon them; goes away himself, and takes the keys with him; then immediately he summons the people; tells them, that, by a contrivance of his, he had taken all the nobility in a trap: That now was the time for them to be revenged upon them for all their insolencies: That therefore they should immediately go along with him and dispatch them." Sir, the officers of our army, after a fast, could not be more ready for the villainy than this people were; and accordingly they made as much haste to the slaughter as their lord protector could desire them: But, sir, this wise man I told you of, was their lord protector indeed: As soon as he had brought the people where the parliament was sitting, and when they but expected the word to fall to the butchery, and take their heads, "Gentlemen," says he, "though I would not care how soon this work of reformation were over, yet in this ship of commonwealth we must not throw the steersmen overboard till we have provided others for the helm: Let us consider, before we take these men away, in what other hands we may more securely trust our liberty and the management of the commonwealth:" And so he advised them, before the putting down of the former, to bethink themselves of constituting another house. He begins and nominates one, a man highly cried up in the popular faction, a confiding man, one of much zeal, little sense, and no quality. You may suppose him, sir, a zealous cobler.[1] The people, in conclusion murmured at this, and were loth their fellow mutineer, for

[1] "Colonel Hewson, then Sir John, now Lord Hewson, some time an honest shoe-maker or cobler in London, went out a captain upon the account of the cause, was very zealous, fought on stoutly, and in time became a colonel; did good service both in England and Ireland; was made governor of Dublin; became one of the Little Parliament, and of all the parliaments since; a knight also of the new stamp. The world being well amended with him, and the sole so well stitched to the upper-leather, having gotten so considerable an interest and means, he may well be accounted fit to be taken out of the house for a lord, and to have a negative voice in the other house over all the gentle craft and cordwainers company in London if they please. But though he be so considerable and of so much merit in the protector's, as also in his own esteem, not only to be knight but also a lord, yet it will hardly pass for current with the good people of these lands, it being so far beyond the last: neither will they think him fit (saving the protector's pleasure) to have a negative voice over them, though he formerly fought so stiffly against it in the king and lords, in order to set them free."—*Second Narrative, ut supra, III.* 460.

no other virtue but mutinying, should come to be advanced to be their master, and by their looks and murmurs sufficiently expressed the distaste they took at such a motion. Then he nominates another as mean a mechanic as the former: You may imagine him a bustling rude drayman or the like.' He was no sooner named but some burst out a laughing, others grew angry and railed at him, and all detested and scorned him. Upon this, a third was named for a lordship, one of the same batch, and every way fit to sit with the other two. The people then fell into a confused laugh and noise, and enquired if such were lords, who (by all the gods) would be content to be the commons.

Sir, let me be bold (by the good leave of the other house and yours) to ask the same question? But, sir, to conclude this story, and with it, I hope, the other house: When this wise man I told you of perceived they were now sensible of the inconvenience and mischief they were running into, and saw that the pulling down their rulers would prove in the end but the setting up of their servants, he thought them then prepared to hear reason, and told them, "You see," saith he, "that as bad as the government is, we cannot, for any thing I see, agree upon a better: What then, if after this fright we have put our nobility in, and the demonstration we have given them of our power, we try them once more, whether they will mend, and for the future behave themselves with more moderation?" That people, Mr Speaker, were so wise as to comply with that wise proposition, and to think it easier to mend their old rulers than to make new. And I wish, Mr Speaker, we may be so wise as to think so too.

[1] "Colonel Pride, then Sir Thomas, now Lord Pride, sometime an honest brewer in London, went out a captain upon the account of the cause; fought on, and in time became a colonel; did good service in England and Scotland, for which he was well rewarded by the parliament; with cheap debentures of his souldiers and others he bought good lands at easy rates; gave the Long Parliament a purge; fought against the king and his negative voice; and was against the negative voice of his brethren, the lords spiritual and temporal, being unwilling to have any in the land; but hath now changed his mind and principles with the times, and will fight for a negative voice in the Protector, and also have one himself, and be a lord, for he is a knight of the new order already, and grown very bulky and considerable: It is hard to say how the people will like it. However, his worth and merits, rightly measured, will, no question, render him fit to be taken out of the house to be one of the other house, and to have a negative voice, not only over the bears, but all the people of these lands, though he did formerly so oppose and fight against it; and the noble lawyers will be glad of his company and friendship, for that there is no fear of his hanging up their gowns by the Scottish colours in Westminster-hall, as he formerly so greatly boasted and threatened so to do."—*Ibid. III.* 459.

Colonel Pride was made, by a witty royalist, to compare himself to David, with this difference, that David laid by a sword to take up his sling, and the colonel laid by his sling to take up a sword.

A brief Relation, containing an Abbreviation of the Arguments urged by the late Protector against the Government of this Nation, by a King or a single Person, to convince Men of the Danger and Inconveniency thereof. Urged by him to many of the Army at St Alban's, Windsor, and Whitehall, a little before the King was beheaded, and at several other Places. Published for the Good and Information of Parliament, Army, and People. Printed January, 1658.

This is a recapitulation of the arguments against monarchy, which were pleaded by no one more strongly than by Cromwell himself, until he saw a prospect of placing himself upon that eminence. The same reasoning is now urged against the continuance of the supreme power in the hands of his son, and the whole is obviously the labour of a staunch republican.

To the Reader.

Reader,

Of what opinion or judgment soever you are, let not your headiness, or prejudicate opinion, hinder you from considering what is here declared, the substance and truth whereof is well known to some in city, army, and country, for thine and thy posterity's good, welfare, and preservation. But beg of God wisdom, and he will shew thee the mystery of iniquity, when it is going to be settled by a law, and will cost thee hot service and sorrow of heart to redeem thyself and country, and it may be, when thou wouldst redeem it, it will be too hard for thee.

The consideration of the obstruction that probably this true relation will meet with from all fawning courtiers and deceived Englishmen, had almost prevented its prosecution; but, remembring what necessity there is of awaking my dear slumbering countrymen from that drowsy state that for some days they have seemed to lie in, which, if persisted in, will give too great an opportunity to the common enemy to effect his will on us all, I was encouraged to proceed, trusting in the Lord, who has and will deliver the innocent from all calumnious aspersions of court parasites. And, therefore, without any other apology I shall proceed to the arguments themselves, which I shall deliver, if not in the absolute terms, yet in the genuine sense.

Imprimis, Because it is possible, yea, and more than ordinary probable, that a single person in a short time will work over his council to his own will, though illegal, either in conferring places of honour and profit on them and their friends, or else terrifying them by threats.

2. Because that a single person, being raised to such a state, is subject to wax wanton and so forget; or, rather, neglect the commonalty, in providing for a few that will be at his beck, ready to fulfill his pleasure.

3. Because that, notwithstanding for a time he may carry matters fair, and do some good things, Jehu-like, until he has gotten an interest in the affections of the people;

but then, forgetting, or rather slighting, what he formerly pretended to, instead of countenancing of justice and endeavouring reformation, it is possible he may become a favourer of iniquity; nay, said he, a settler of a court, or nursery of whores, rogues, bawds, and such like persons, as was evidently seen in former days at Whitehall.

4. Because, if he cannot accomplish his design on his council, but they discover his wickednesses and abominations, and oppose him on the behalf of their country, he will be ready and apt secretly to confederate and make leagues with other princes, and so let in a foreign enemy, rather than be kept within the bounds of law and justice, as we have seen in the (late) king, who has brought in Irish and Scots, and also sent letters patents, with letters of credence to three foreign princes, inviting them to come into England.

5. Because, if the chief governor, king, or single person should become an ideot, then nought but a continual charge upon the good people could be expected, even robbing them of their substance until they are made so poor as not to be able to oppose an enemy; which, so soon as understood, will sufficiently encourage a foreign enemy to make an invasion upon us.

6. Because the government, by one single person, is far more chargeable to the people, which, in the laying aside of, the people will soon become sensible by the lessening of their charge: For that revenue (which was to uphold one man, and spent in voluptuousness by him) being brought into the publick treasury, will help to defray much of the charge that otherwise must fall on the people: Nay, said he, whosoever shall go about to settle the government in one person, will make themselves so odious, that the people will be ready to knock them on the head; for when once the family of Stuarts is gone, if you establish one man in the government, in a little time he will become master of the nation's treasure, and, at his first coming to the place, will most eagerly desire monies, to buy this bauble for one and that toy for another; and, after a little while, when he hath tasted the sweetness and deliciousness thereof, will, to maintain the same, become a purchaser of lands with the people's monies, until they are become so poor, that they shall be necessitated to be his vassals, and, consequently, slaves for ever; for, as the first doth, so a second and a third will do after him, until the good people be utterly undone.

7. Because, the government being placed in one person, he will be subject to judge of himself as above law, and without the reach of any law; and, by violence, tyrannise over whom he pleases, commanding one man to prison, and monies from another, and, possibly, both money and liberty from a third, &c. the refusing of which arbitrary commands or actions will expose men to his mercy, which will be no less than cruelty.

8. Because that the abominations and wickedness of a court have been, and, is justly feared, will be so great, that both the person himself and his council about him will always, for to uphold his voluptousness, be ready to erect new monopolies, granting patents to his lords, &c. to get money from the people for to maintain their pomp and pride, and thereby keep the people in such servitude, that, in a little time, they will be out of a capacity to gain justice on any of the courtiers: And then the citizen must wait for his money when his commodity is sold, and scarce dare ask, and not dare arrest a courtier for what he oweth, for fear of his master. And the countryman's hedges will be broken down, his corn trampled on and spoiled, or eaten by the game, and to complain of which will be accounted a crime little less than treason.

These and such are the things you must expect, said he, if you set up one single person; and who would be so mad, God having so signally witnessed against the king and house of lords? The much blood that hath been shed, and the vast treasure that hath been expended, and the controversy decided on our parts, witnesses aloud against

it. Further, said he, I am confident, that, whoever they be that shall go about to settle a court in this nation, God will destroy and bring to nought, and confusion will be to them and their posterity; and, said he, if ever I should go about any such thing, I desire God would never bless me nor mine.

He farther declared, that God had borne witness against the parliament, for that they were intending to make peace with the late king and to settle him; telling some members of the then parliament and army, when they spoke of settling the government in one single person, that God would destroy them; some for going about to settle iniquity by a law, and others for not protesting against them, and for not declaring their protest to the good people of England. And thus now, gentle reader, thou hast the substance of some of the reasons urged by the late lord protector against monarchy, though suddenly he leaped into the same himself. But now it may be said, these reasons are not sufficient to prove the same. Whether they are or not, I shall not now dispute; but, that it may appear to be probable, I present these ensuing queries.

Upon the whole I query, whether any man upon rational grounds can expect that the present protector, or single person pretending to the government, shall be more honest, righteous, and just, than his deceased father was?

But more particularly upon the Arguments,

1. I would query, first, Whether the late protector did not work over his council to some things illegal?

2. Whether kings formerly, and the protector lately, did not wax wanton, and, providing for some few of their creatures, neglect the commonalty?

3. Whether our late experience of a single person cannot testify, that, though for a small time he seemed to favour honest men and things, yet, when he thought himself seated, whether, I say, he did not then slight both them and it, and become a favourer of the contrary? And whether our late court did not shew more growth and increase of rogues, bawds, and whores, than all the time of our government by a commonwealth?

4. Whether a confederacy has not been made abroad with our secret enemies at home, that so a single person might the better suppress those that see the wickedness of his designs?

5. Whether the single person now pretending to government, though the son of a subtle man, be a wise man, fit to dispose of commonwealth treasure?*

6. Whether the good people of this nation be not very sensible of the expensiveness extraordinary of a single person, more than of a commonwealth? And whether they do not find a want of that vast treasure expended upon baubles, toys, and gewgaws, such as we of late have had too much cause to speak of? And whether the cause of the people's poverty has not been by means of purchasing lands to the family of the late protector, as well as High-Spaniola business?

7. Whether the late person set up did not judge himself above law? And whether he did not tyrannise over men's persons, restraining both them and their liberty? And whether the mercy he has pretended to in the execution thereof has not been very cruelty?

8. Whether the late single person, to uphold his and his courtiers voluptuousness, has not been ready to uphold what monopolies he found on foot, and likewise to devise new ways to the same purpose? And whether the citizen has not had experience of court-

* From this, it would seem, Richard Cromwell's talents were not highly rated in public estimation.

payment, and the countryman, though sad, of the spoiling of his fences and destroying of his crop, by them that belong to the court? And that they please to call their *game*. And, if these be the beginnings, what will the end be? And therefore, for a closure, I must say, What shall we say or do, more than the King Protector has said and done?

Now, to conclude, I humbly present to consideration, whether, upon a diligent, serious weighing of the present action and past management of state affairs, of some, being lawyers, &c., raised from a low estate to sit in council, and become great favourites at court, it may not be found and clearly seen that they have a design to bring in Charles Stuart? For, if they first bring in a single person, and grant that, the next dispute will be, Whether the one family or the other has most right; and who has most interest, Charles or Richard, I think asketh no long time to answer. Farther, I would add, Whether it be not more likely to attain to the practice of that golden rule, "Do as you would be done to," under the government of a commonwealth, in which lawmakers are liable to be judged by the law made, rather than under a monarchical government, where, or in which, one, if settled, is above law, and accountable to none, who, though never so wicked and unjust, cannot be removed but by an extraordinary providence, as was the case of the late king and protector.

Now, whereas it is endeavoured by some court parasites to insinuate into the people, that that which the commonwealth party aims at is an involving of the nations in blood and confusion, I would meekly tender, whether their deportment and behaviour, under the almost insupportable burden of the tyranny of late times, in which their rights and liberties have lain bleeding, hath given any just cause of such suspicion, or rather, whether their patience has not manifested their hope hath been and still is in God, from whom, by the means of a lawful free parliament, they only expect deliverance? which is a vindication sufficient, not only from what is now suggested against them, but also from that old brand, that the late protector, in a letter to the late king, while at Hampton-court, gave them, viz. levellers; and that their work would be to kill the king and levy all men's estates, by which means he effected his end, viz. an incensing of the people and the other part of the army against them; which, when he had done, he easily carried on his wicked designs, which since have come to public view; for a deliverance from which are the prayers of all true Englishmen.

A true and impartial Narrative of the most material Debates and Passages in the late Parliament; together with the Rise and Dissolution of it: Published for the Satisfaction of those who desire to know how they spent their Time. 1659. *By Slingsby Bethell, Esq., a Member of that Parliament.*

Slingsby Bethel, author of the following narrative of the proceedings in Richard Cromwell's parliament, was son of Sir Walter Bethel knight, by a sister of the celebrated Sir Henry Slingsby, a steady cavalier, who was executed on Tower-hill, 1658. He was an independent, and consequently a republican; enemy alike to the domination of protectors or kings. Bethel survived the Restoration, and made a distinguished figure in the political convulsions which attended the popish plot and the bill of exclusion. He was a staunch adherent of Shaftesbury and Mon-

mouth, and was elected sheriff with Cornish (afterwards executed for the Rye-house plot,) in 1680, when they distinguished themselves for their address in packing the *ignoramus* juries, who threw out the bills brought against Shaftesbury and others in that year. This laid Bethel under the lash of Dryden, in Absalom and Achitophel, where he is bitterly satirized for his republican tenets, avarice, affected sanctity, and turbulent politics :—

"But he, though bad, is followed by a worse,
The wretch who Heaven's anointed dared to curse.
Shimei,—whose youth did early promise bring
Of zeal to God and hatred to the king,—
Did wisely from expensive sins refrain,
And never broke the Sabbath but for gain;
Nor ever was he known an oath to vent,
Or curse, unless against the government.
Thus heaping wealth, by the most ready way,
Among the Jews,—which was to cheat and pray.
The city, to reward his pious hate
Against his master, chose him magistrate.
His hand a vase of justice did uphold;
His neck was loaded with a chain of gold.
During his office treason was no crime;
The sons of Belial had a glorious time;
For Shimei, though not prodigal of pelf,
Yet lov'd his wicked neighbour as himself:
When two or three were gather'd to declaim
Against the monarch of Jerusalem,
Shimei was always in the midst of them;
And, if they curs'd the king when he was by,
Would rather curse than break good company.
If any durst his factious friends accuse,
He pack'd a jury of dissenting Jews,
Whose fellow-feeling in the godlike cause
Would free the suff'ring saint from human laws;
For laws were only made to punish those
Who serve the king, and to protect his foes.
If any leisure time he had from power,—
Because 'tis sin to misemploy an hour,—
His bus'ness was, by writing, to persuade
That kings were useless, and a clog to trade;
And, that his noble style he might refine,
No Rechabite more shunn'd the fumes of wine;
Chaste were his cellars, and his shrieval board
The grossness of a city feast abhorr'd.
His cooks with long disuse their trade forgot;
Cool was his kitchen, though his brains were hot.
Such frugal virtue malice may accuse;
But, sure, 'twas necessary to the Jews:
For towns, once burnt, such magistrates require
As dare not tempt God's providence by fire.
With spiritual food he fed his servants well,
But free from flesh, that made the Jews rebel;
And Moses' laws he held in more account
For forty days of fasting in the mount."

Absalom and Achitophel, apud DRYDEN'S *Works*, Edin. 1808, vol. IX. p. 295.

The present tract, which contains some curious particulars respecting the views of the different parties during the short protectorate of Richard Cromwell, was originally published in 1659, and afterwards appended to a work intitled "The Interest of the Princes and States of Europe,"

8vo., London, 1694. Slingsby Bethel also wrote a tract intitled, "The World's Mistake in Oliver Cromwell," and "Observations on a Letter written by the D. of B——."

THE over-ruling hand of Providence having, upon the third of September (a day of signal mercies unto this nation,) taken away the late usurper, whilst he was in possession of the title of Protector of the Commonwealth, his son Richard was, the next day, by the council at Whitehall, proclaimed his successor. He, by the authority thereof, did, about three months after, issue out writs for a parliament to begin the 27th of January following. The people, who, in their diffused condition, is capable only of obeying their superiors, and not of disputing the legality or illegality of their commands, made choice of members to serve in parliament. They, according to their summons, assembled upon the day appointed. When they were met, the pretended Protector sent the black rod to let them know that he was in the other house, and desired to speak to them there; at which call, not above ten or twelve went out of the house, though more that was not come in appeared before him. Mr Chute was that day chosen speaker; and, after a bill unpassed, left by the precedent parliament, was according to custom read; the house adjourned until the next day. Then a gentleman was complained of for affronting two members, and he ordered to be brought to the bar of the house by the serjeant. A private fast in the house, and the ministers to perform the duties of that day, was appointed; a committee for elections and priviledges chosen; and so the house adjourned until the 31st of January; it being customary, at the beginning of parliaments, to give the speaker a day or two to settle his own business, in that he may the better afterwards attend the service of the house. The gentleman that affronted the members was brought to the bar upon his knees, and for his offence committed to the Tower; but in a few days, upon his submission, and at the intercession of the gentlemen abused, he was released. The first of February a bill was brought in by Mr Secretary, under pretence only of acknowledging the pretended protector, but under such terms as had no less in them than the admittance of the chief magistrate and the person then sitting in the other house, unto the full power, privileges, and prerogative of the ancient kings, and ancient house of lords, which the court party designed to have carried undiscovered, and so have left the nation either to have fought the late quarrel over again, or else to be content with a bad change of persons, where there was none of things.

The bill was that day, without much difficulty, read the first time, which encouraged those of the long robe related to the single person[1] to press for the reading of it again the same day, to the end that, it being the next day read the third time, as they designed it,) it might have passed into an act; but in opposition to that, some who were more careful of the liberties of the people than those of the long robe ordinarily are, moved that, according to rule in cases of such weight, it might be referred to a grand committee of the whole house; and when that would not be granted, that the second reading of it might at least be put off for some days, and liberty given to the members to take copies, that, considering of the business, they might be the more fitting for the debate, which was yielded unto, and the seventh of February appointed for the second reading.

The state of Major-general Overton's[2] sad and deplorable condition was given at the door, and at the same time the house was petitioned by his sister for a hearing of him

[1] Richard Cromwell.

[2] Cromwell had imprisoned Major-general Overton in the Isle of Jersey, on account of his having expressed, in dangerous terms, his dislike of the protectorate.

by them, which was granted, and two votes passed in order to it; first, that his keeper should, with all speed, bring him, with the cause of his imprisonment, before the parliament; and, secondly, that a frigot should be sent to fetch him from the Isle of Jersey, where he was then prisoner. About six weeks after he was brought to the bar of the house by his keeper, who produced no authority for his detainment but a bare command (without any cause expressed) from the late usurper; whereupon the parliament voted his imprisonment illegal and unjust, and that, first, because no chief magistrate had ever power to commit any person by his own warrant; secondly, because there was no cause expressed in the warrant; and, thirdly, because no man can, according to law, be banished but by act of parliament: And so released him from his imprisonment without paying any fees or charges.

The 5th of February, a person who sate in the house being found to be no member, was for his offence therein committed to Newgate, and not to the Tower, which is the parliament's prison, chiefly in regard of the present lieutenant's great exactions and oppressions, and partly that, upon inquiry, the offender was found to be under some degree of distraction.

Upon the day appointed, the bill for recognizing the Protector was read the second time, and the debate begun. The Petition and Advice was pleaded by the court party as the foundation of his title, but by those that was for the commonwealth it was denied to be a law: and that not only from the inconsistency, lameness, and insufficiency of it, but also from the corrupt manner of its procurement, that assembly that made it being no parliament, but a faction, in that the members were never suffered to meet, but so many of them kept out, even by him that called them, as he judged would hinder the execution of his will; besides that, at the creation of that monster, there was but of 460 chosen, but 104 in the house, whereof 51 was against it, and carried meerly by the strength of Scotch and Irish members, who had no right to sit, but were usurpers in the making laws for England. It was further shewn, that if Cæsar Borgia, Pope Alexander VI., and Matchivel, had all laid their heads together, they could not have framed a thing more destructive to the liberties of the people, and for absolute tyranny giving away all that our ancestors have fought for ever since the conquest, than the Petition and Advice; as the negative vote, the power of dissolving parliaments, the purse of the people, and in that all the security they had for their rights and liberties; for, give the single person your purse, and you give him the militia, and if he have that, all boundings of him by laws signifies no more than binding of a lion with paper chains. But the courtiers being resolved, with nothing less than a Turkish power, would suffer no strength of reason to prevail with them to the making of the Petition and Advice unauthentick, but would by force allow it for a good law, which provoked the demanding the pursuance of that law to be proved, and that the pretender's designation was according as it is there directed; but though this was pressed by divers persons of great abilities, never any answer was given unto it; those of that party knowing, that, by the strength of their members, they could over-rule the strength of reason. It was, from such silence in the point of designation, argued, that if Providence had prevented the usurper of keeping to the rules of the Petition and Advice, and that it was thereby fallen to the ground, all government was reverted to its original (the people,) and ought by them assembled in parliament to be derived wherever it should be seeked, which would readily have been done to the gentleman in possession, if he and his party would upon those terms have accepted of it.

This debate (no man speaking twice to the matter) held eight days, in which time superlative excellency and good affections to the publick appeared in several gentlemen; yet the best end they could bring this debate unto was to conclude with the two following votes, as previous to the commitment of the bill:

Monday, 14 *Feb.* 1658.

Resolved, That it be part of this bill to recognize and declare his Highness Richard Lord Protector, to be Lord Protector and Chief Magistrate of the Commonwealth of England, Scotland, and Ireland, and the dominions and territories thereunto belonging.

Resolved, That before this bill be committed, this house do declare such additional clauses to be part of this bill as may bound the power of the chief magistrate, and fully secure the rights and privileges of the parliament, and the liberties and rights of the people; and that neither this, nor any other previous vote that is, or shall be passed in order to this bill, is or shall be of force or binding unto the people, until the whole bill be passed.

This last previous vote passed the house without one negative more than the secretary; but when the courtiers knew the sense of Whitehall upon it, from that time forward they own'd themselves such slavish executioners of a pretender's will and lust, that they never appeared in the least for the making good one word of it.

During this debate several complaints was made (reflecting upon the court designs) as that the assizes (without precedent, upon no greater occasion) was put off, to the common wrong of the whole nation; desiring therefore, that to the end that the people might receive no prejudice by the sitting of parliament, nor have cause to be out of love with parliaments, that the protector might be moved to command the carrying on of the assizes; but the courtiers, being resolved not to lose so considerable a part of their strength as the lawyers, they would have the whole nation to suffer in the want of justice, rather than they would want one of their members.

That Whitehall had writ eighty letters for the making members of parliament, most of which had had their effect. That Mr Howard, a papist, and brother to the Earl of Arundel, boasted, that, at the instance of the protector and secretary, he had sent twenty-four members to parliament. That several tables were kept at Whitehall, at the vast charge of the publick, on purpose to corrupt and deboist members by great entertainments; all which was acknowledged to be against the orders of the house, and particularly for any members (not menial servants) to go to Whitehall during the sitting of the parliament.

After this the secretary gave an occasion of foreign affairs, declaring a million of money needful for defraying the naval expences for this summer, which brought on the debate concerning the navy, in behalf of the public; that as the navy is part of the militia, and the militia the right of the people assembled in parliament, and that, without the militia, the parliament could not make good their promises to the people, in bounding the power of the chief magistrate, and securing their rights and liberties; that the house would appoint certain commissioners for management of the naval forces. The debate for setting out a very considerable fleet to sea for defence of the commonwealth and commerce held not long, the thing being readily and unanimously agreed on; but who should manage the fleet was a debate of several days, and at last carried with a strong hand by the court party, against all reason and policy, that the protector should have the disposal of it; only the commonwealth's men got into the vote, that the making peace and war should be reserved unto the parliament.

Mr Portman, a prisoner in the Tower, was, upon his petition, brought before the house, with the cause of his imprisonment. The warrant to the lieutenant of the Tower for apprehending him was produced, and being only from the usurper, in these words following:

"Sir, *Feb.* 3, 1657.

"I desire you to seize Major-General Harrison, Mr Carew, Portman, and such as are eminent fifth-monarchy men, especially Feake and Rogers; do it speedily, and you shall have a warrant after you have done."

The parliament voted his imprisonment illegal and unjust, and freed him out of prison without paying either fees or charges. Several other complaints of a higher nature, as for banishment and selling of gentlemen to Barbadoes for slaves, was before the parliament, wherein they were prevented, by their dissolution, of doing any thing: but Mr Maynard (then called a serjeant from the usurper's making) was ordered to bring in a bill for prevention of the like tyranny in the future. The accounts of the commonwealth was called for, and a committee appointed to examine them, and report the state of them to the house.

The house was called upon to make good their vote of bounding the power of the chief magistrate, and securing the rights, privileges, and liberties of the parliament and people; and that, as they had filled the hearts of all men with joy, in expectation of having their rights ascertained, that they would not render themselves jugglers, in promising what they never intended to perform, but to take the several parts of the previous vote into consideration; and as bounding the chief magistrate is first in order, so to begin with it. Yet such was the disingenuity of the court-party, being made of household servants, officers of profit, suitors for offices, lawyers, (the corrupt part of whose trade cannot be maintained but by a corrupt government,) Scotch and Irish members, chosen by the pretender's interest, that no arguments of honour or honesty could engage them to be faithful to their country; such as were most open confessing plainly, that they were so far from bounding the chief magistrate, that they desired to give him as much, nay, more power, than any king or prince of England ever had, seeming to cast dirt upon the famous Long Parliament (whose successes and great atchievements will, by posterity, be had in admiration) for asserting the rights of the people against the king's own person, not sticking to charge them with murder for that war, and that without reproof, but rather countenance from them. But others, more prudent, waved bounding of the chief magistrate, under pretence of first settling the constitution of the government; and so falling upon the debate of that, after some days spent in it, at the last voted, that it should be part of the bill for recognition, to declare the parliament to consist of two houses. After this, the house was again put in mind of their duties to the people, and urged to fall upon bounding the power of the chief magistrate, which, as it was first in order, ought to have been first in debate. But the courtiers, commanding all by the strength of their members, waved the chief magistrate, and fell upon constituting the other house, in which some days were spent in disputes betwixt the new and old royalists, the commonwealths-men remaining silent, to see what the strength of the other's brains would produce. The first was for the new creation of lords, with the mixture of the old, upon such limitations as they might not over-top the new. The other for the old, with a mixture of the new, and for the full privileges of the ancient houses of peers. But after it appeared, that they could make nothing of the debate, not daring to trust one another, the commonwealth-men fell in, and shewed, that where the cause is taken away, the effect must cease; that as the house of lords had anciently a natural right to a superior jurisdiction, in that their propriety was five parts of six of the whole nation, so is it now more natural for the commons to have that superiority, their proportion of propriety being ninety-nine parts, or more, of a hundred; and therefore moved, that if they would have another house, it might be so bounded as might suit with the people's interest; whereupon they proceeded to the debate of the bounds and powers of the members sitting

in the other house of parliament, and begun with the other house of parliament, in which some days was spent, they being but for life, for that it is against the common law for any one to be a judge for him and his heirs for ever; then for their being first allowed and approved of by the parliament; then upon their having negatives only in some matters; yet ended none, but at last disingenuously laid all aside, and, instead of bounding and approving of them, a bare question was brought on foot, Whether the members sitting in the other house, as then constituted, should be transacted with or no, thereby to let them at once into the full privileges of the ancient lords, and to make it pass the smoothlier. A plausible clause, to save the rights of the ancient peers, was added by the courtiers, which was done only to gain the cavaliers in that vote, and not with any intent to let in the lords, they confessing occasionally that the rights of the ancient peers could be nothing, so long as the act for taking away of them was in being and un-repealed. Against acting with the members sitting in the other house, as then constituted, was alledged the inconsistency of it with the rights and liberties of the people, which they had sworn to maintain; as, first, in that they were most dependants upon the single person by way of salaries, and so likely to be his mercenaries. Secondly, for that the militia, both by sea and land, was in the hands of the persons then sitting in that house. Thirdly, that all the chief judges were members, as the three keepers of the seal; two chief justices, master of the rolls; and that it might well be thought that the lord chief baron would be accounted as worthy to be one as the rest; and then the people, in all cases of appeals, could do no more then appeal from the judges in Westminster-hall to the same persons sitting in parliament; and that the chief judicature, being in that house, and having the militia to maintain it, that house might wrong the commons as they pleased, and they remain without remedy. Fourthly, that all the privy council, the chief judges, and general officers, both by sea and land, being members, the lawyers and officers of profit (of whom the body of the house of commons would be made up) would be the creatures and mercenaries of one or other of them of the other house, and so make the house of commons to be nothing but the executioners of their lords and master's will. But, notwithstanding these and many more excellent arguments incomparably pressed by persons of great virtue and abilities, the servile and mercenary court-party would not be prevailed with to bound and approve the members sitting in the other house, before they put it to the vote for transacting with them, which made the commonwealths-men immediately, as the question was coming on, to except against the constitution of the house, as having sixty persons in it sent from Scotland and Ireland, which had no right nor title to sit, which they did as being afraid to venture the question for the transacting with the other house, without first bounding and approving therewith. With this new-started exception, which held afterwards fourteen days debate, the house rose, and the next day Mr Chute, their worthy and impartial speaker, finding himself indisposed, desired to be dismissed the service; but the house, valuing him at a high rate, would not accept of his resignation, but dispensed with his attendance until he should recover his health, by withdrawing into the country, or otherwise, as he should think fit; and to supply his place in the mean time, Mr Long, Recorder of London, was chosen. But it pleased God, the great disposer of all things, to end both their days before the end of the parliament, taking away the latter first, in whose room, as supplying Mr Chute's place, was chosen Mr Bamfield, Mr Chute being yet living, though lived not to come any more unto the house.

The debate concerning the Scotch and Irish members came on, which run several ways. The courtiers, after they found the want of law, flew to prudence, arguing, that, for obliging the Scotch and Irish nations, their members ought to be admitted. To which was answered, that nothing could be more provoking to those two nations than fraudulently to give them the name of having members in parliament, when, in truth,

by the late elections they had few or none, most of them being chosen at Whitehall, whereof some had hardly been ever nearer Scotland than Gray's-Inn. But, besides this answer to the courtiers arguments of prudence, the commonwealths-men argued against their sitting, as having no legal right or title to sit, and that, without keeping to legal rules, foundations could not be maintained, for otherwise they that sent sixty now, might send three hundred next time, and so make parliaments of what number and temper they pleased; and therefore would that the members of both nations might withdraw, and be afterwards brought in upon legal and equal feet. But Whitehall, being resolved not to part with any of their strength, (though, after they had done their work, they intended to have cast them off,) would have nothing to do with law or right, and therefore, whereas the question should have been, Whether the Scotch and Irish members had any legal right to sit, the words *legal right* was thrown out, and the bare question put, Whether the Scotch and Irish members should sit, and, by the help of the Scotch and Irish, who were suffered, contrary to the law of nature, to vote in their own case,[1] it was carried that they should sit in parliament; in which vote the parliament may be said to have betrayed their trust, in taking in strangers without law to make laws for the English nation, and in not punishing the keepers of the seal, who presumptuously took upon them, without and against law, to send sixty strangers as members to parliament.

After this, the main question for transacting with the other house, before bounded or approved, which had been interrupted by the debate about the Scotch and Irish members, came on again; it was endeavouring to get the words *bounding* and *approving* the members into the question, but they were thrown out by a vote, and the bare question put, Whether they should be transacted with or no, as then constituted, only the commonwealths-men got the words, *during this present parliament*, into the question; and then, by the help of the Scotch and Irish votes, by whose number all questions was carried in favour of the court, it was resolved to transact with the persons then sitting in the other house of parliament during this present parliament.

The report of the committee concerning the accounts of the commonwealth was brought in. By it appeared much bad husbandry and ill government in the last five years; several offices being created to serve persons and make creatures, without having in them any eye to the publick, insomuch that, whereas at the interruption of government, the commonwealth (reckoning the ready money in cash, the armies payed some months beforehand, and the stores newly laid in,) might be accounted rich, they are now near two millions and a half in debt.

The Lady Mary Huet petitioned the grand committee of the whole house for grievances against the high court of justice, for unjustly taking away the life of her husband;[2] but some members declaring themselves concerned, and it being the privilege of a member not to be petitioned against, any where but to the parliament, the petition was returned her with that intimation.

A publick fast through the three nations was voted, and a declaration for the same, from the commons and the protector only, was ordered to be brought in. But the court party, to the end to ingage the transacting with the other house, brought in the declaration in the form of a bill to be made an act, which caused the expence of some

[1] Ludlow informs us that Swinton, of Swinton, alone, who had been one of Cromwell's Scottish judges, modestly retired, and declined to vote in his own cause.

[2] Dr Hewet, a zealous cavalier, executed upon Tower-hill, in 1658, at the same time with Sir Henry Slingsby, maternal uncle to the author of this tract. His crime was distributing commissions to different persons in the name of Charles II. But as the high court of justice under which he suffered was now generally stigmatized as illegal, it would seem that his widow hoped to avail herself of the general discontent against the protectoral government. The lady was a sister of the gallant Earl of Lindsey, slain at Edgehill, and was afterwards married to Sir Abraham Shipman.

days in debating in what manner and form to send it to the other house, for that the first transaction would be the rule for the future. It was in order thereunto voted, that the commons would not shew the other house any other respect than they should shew to them. Secondly, that they would send members of their own to the other house; and that they would receive no messages from them but by members of their own number. This was all the votes of publick concernment that was carried in the whole time of the parliament, which was either honourable or advantagious for the commons; and yet the courtiers, after they had consulted with Whitehall, were resolved to have unvoted and made it null and void. It was under debate what ceremony the messenger should use at his approach into their house, and what title to give them. Mr Speaker, My Lord Commissioner, and My Lords and Gentlemen, was all severally spoken of, but none agreed on; and the courtiers haste being such as they could not stay, the messenger that carried the act for the fast down to the other house was advised to give them no title at all, which directions he followed, and so left the bill with them, which was never returned. During this debate, some exceptions being taken at Mr Speaker's carriage as unequal, he was accused of having had conference at Whitehall with the pretender, as that which was contrary to the orders of the house. This charge put the house into a great heat, some taking part with him, and some against him; and as the courtiers were not only most in number, but best at brawling, so they made the greatest noise, until they observed matter of truth in the thing, and then, as the party charging was satisfied with giving the reproof, so the courtiers were willing to have it die. Some deficiency was observed by the court in the acts for forcing the payment of the excise, and therefore a bill was brought in by one of that party, under a specious pretence of settling it but for a certain number of years, as the parliament should agree on, whereas it was settled for ever. This bill, after long debate, was, by means of commonwealths-men, laid aside, and a declaration brought in by them to enjoin the payment of the excise during the sitting of the parliament, owning clearly their design to be, that if the laws were not good, the ascertaining the excise no longer than during the parliament would put a necessity upon the chief magistrate to let the parliament sit until they had done some good for the poor people of England, and if they were good, the declaration did not prejudice them; but as the commonwealthsmen laid aside the courtiers bill, so they laid aside the commonwealths-men's declaration.

The parliament fell upon the accounts of the commonwealth again; considered how to retrench the charges, bring the disbursements not to exceed the income, raise present money for the army out of the arrears owing the state, and other ways, if possible, without laying any new tax (which the court party was much for) upon the people; but in this they were interrupted by the courtiers, who brought on foot, 1. To vote all the officers of the army to go to their several charges. 2. That they should hold no meeting during the sitting of parliament, but by consent of the protector of both houses. 3. That none should be in office but such as would subscribe not to interrupt either house of parliament in their debates, &c. These votes were sent down to the other house, where they remain'd unreturned. The next day the accounts were fallen upon again, but interrupted the second time by the courtiers, who brought on foot the question, Where the right of the militia did reside? with a design, first, to vote it in the protector and both houses of parliament; and, secondly, to vote the protector general, knowing that in such case the parliament's interest in it, even during their sitting, would have signified nothing, and, after they were dissolved, it would fall naturally to the protector solely, because no other power pretending to it would be in being. But in this business they could not come to a question that night, though striven hard for by the court party, who was so eager upon it, that when it was desired that they would but consult the declarations of the parliament, and the king's conces-

sions thereupon concerning the militia, that so they might not rashly give away from the people what the king had granted to be their right, they would not endure the reading of them, lest they could not for shame make the people slaves after their eyes were open, which they were resolved blindfolded to do. The next day, being the 22d of April, the black rod came to the door to have entrance. The serjeant, who should have done no more than acquainted the house that such a messenger was at the door, acquainted them with his message, (viz.) That, by order of the protector, the speaker of the other house sent to the house of commons to come, with their speaker, to them in the other house, which the house received generally with great indignation and scorn, some saying they were the upper house; and so, without receiving the messenger, the house adjourned till Monday, the 25th of April. But the next day the pretended protector dissolved the pretended parliament by a proclamation.

This is a brief relation of the most material debates of the late parliament, many private, and some publick businesses of lesser concernment, being omitted.

Upon the whole, it may be observed that as the court had, by the advantages which always follow the authority of the chief magistrate, so packed the parliament that the over-ruling vote was at their command, so the persons of that party were of such servile and mercenary principles, that they knew no publick interest, nor any other than the private interest of the single person, and their own.

That all that the commonwealths-men were able to do, was to defer and keep off slavery for a small time, (in hope that God would send deliverance,) without power of doing any more good than by sometimes getting a qualifying word into a question; for,

If the parliament had sat longer, the commonwealths-men could not have preserved the liberties of the nation many weeks more from the ruins the courtiers had designed; and therefore the dissolution of it may well be looked upon as a deliverance equal with that from the Gunpowder-Plot.[1]

And, lastly, That as the old monarchy, the house of lords, the bishops, and the presbyterians were all, in their several interests, severally destroyed by their several endeavours to maintain the corrupt parts of each several interest, so the downfall of the new monarchy hath proceeded from the same cause: for, would a moderate power have satisfied the pretender and his party, it had been readily yielded, the commonwealths-men being so low in their hopes of what God hath since wonderfully brought about, that they would have been glad of any indifferent terms for the good people of this nation, for whom many and deep pits were digged, but God hath delivered them out of all.

[1] Accordingly Richard was dissuaded by his best friends from this precipitate dissolution.—"21 April, 1659. Richard advised with the Lord Broghill, Fiennes, Thurloe, Wolseley, Whitelocke, and some others, whether it were not fit to dissolve the present parliament. Most of them were for it. Whitelocke doubted the success of it, and wished a little longer permission of their sitting, especially now they had began to consider of raising money, whereby they would engage the soldiery; but most were for the dissolving of the parliament, in regard of the present great dangers from them and from the cavaliers, who now flocked to London, and, underhand, fomented the divisions.

"22. By commission under the great seal to Fiennes and others, this parliament was dissolved, and a proclamation issued to declare it dissolved, which caused much trouble in the minds of many honest men; the cavaliers and republicans rejoyced at it."—WHITELOCKE, p. 678.

The Way to the Peace and Settlement of these Nations fully discovered, in two Letters, delivered to his late Highness the Lord Protector, and one to the present Parliament, wherein the Liberty of speaking (which every one desires for himself) is opposed against Anti-christ, for the procuring of his Downfall, who will not grant the same to others; and now published to awaken the Public Spirits in England, and to raise up an universal Magistrate in Christendom, that can suffer all Sorts of People (of what Religion soever they are) in any one Country, as God (the great Magistrate) suffers the same in all Countries of the World.

MATTH. v. 15. Men do not light a candle and put it under a bushel, but on a candlestick, and it giveth light unto all that are in the house.

By Peter Cornelius Van Zurick-Zee, a Lover of Truth and Peace.

Printed in the year 1659.

Besides the benefit of established physicians, England has at no period of her history wanted the advice of foreign quacks, who, in politics as well as medicine, were willing, out of pure love to her civil and religious liberties, as well as the health of her subjects, like Peter Cornelius Van Zurick-Zee, the author of the following tract, to separate themselves from their homes and families, merely to give their assistance where it may be useful. Mynheer Van Zurick-Zee was a counsellor of this class, and seems, from the following tract, to have been a zealous independent, who was not unwilling to hope that his sect might, in the convulsion of politics in England, acquire a superiority which was denied them by the wise moderation of Holland, and which they abused when they had attained it in Munster. Indeed it must be sufficiently obvious that the most rigorous government in church and state could not be a greater affliction than the predominance of a sect which held every wild reverie of their own brain to be the immediate inspiration of the Divinity, and not only were guided by its impulse themselves, but held it matter of conscience to compel others to be ruled accordingly.

It was unfortunate for the lucubrations of Cornelius Van Zurick-Zee, that they came too late for Barebone's Parliament, being exactly calculated for the meridian of the understanding of these sapient legislators.

To the High and Honourable Assembly of Parliament, representing the whole Body of the Commonwealth of England, Scotland, Ireland, &c.

Lords and Gentlemen,

HAVING seen that policy and religion (which ought to be universal) was divided and severed into many sects, my spirit was much troubled, and looking round about me where to make a beginning to rectify those evils, I found no better object in Christendom than his late Highness the Lord Protector; whereupon I resolved for a

while to leave my family and native country, fearing, if I should not manifest to the magistrates in England what was upon my spirit, that they (having much to do with other affairs) might (through the subtilty of the clergy, as in other nations,) easily be deceived. Therefore, making first my address to some of the counsel, and so (by the favour of them) to his highness, (delivering the two following letters and addresses to him,) I was several times heard by him with patience, doing my endeavour to preserve England from that great dishonour which hath befallen other nations, by setting up, instead of the form and doctrine of Christ, the forms and factions of men. But being obstructed in my proceeding, through the unexpected death of his highness, I was put to some stop, waiting for a better opportunity, and hearing that your honours were to assemble together upon the 27th of January, my spirit was revived, hoping that my design, for the peace and welfare of these nations by that means, (better than heretofore,) might be accomplished. Whereupon I resolved to bring the business (formerly propounded to his highness) to your honours consideration, being persuaded in my heart, if you (who are now entrusted with the weighty affairs of these nations) have fixed your eyes upon God, as the eyes of the good people in these and other nations are fixed upon you, that the proposals laid down in the two following letters and addresses will have a great influence upon your hearts, especially if you consider and remember the notable words of Solomon, where he speaks to the kings and rulers of the earth, that a sharp judgment shall come upon them that are in high places; for mercy will soon pardon the meanest, but mighty men (not standing in the council of God) shall be mightily tormented. Therefore give ear to him, you that rule the people, and glory in the multitude of nations, for he shall try your works and search out your counsels. Set your selves as true servants of the commonwealth (in opposition to Anti-christ) against all oppressors, that so they that seek with Haman to destroy and trample upon the innocent, (contrary to their expectation,) may be disappointed. Let some course be taken, that all persons may buy their estates free from tithes, that thereby henceforth now in all your dominions may be forced to pay tithes to the ministers or others; for that hath been, and is still, the chief cause of persecution and discontent in these and other nations. Suffer by no means (you having respect to the honour of Christ) that any confession of faith be set upon the throne as equal with the holy scripture; for confessions are only to distinguish one sect from another. Assist not with the sword, or money of the commonwealth, any sect or person in particular, that you may not hinder the truth (which hath been long kept under) from manifesting itself by its own power; for magistrates (as magistrates) have no permission to favour any sect or person in particular. If any of them (being considered as a private person) will be a member of a particular congregation, he hath his liberty as well as others, and may honour the same with his presence, with his tongue, with his pen, and with his own money; but not with the sword or money of the commonwealth; for the magistrates (being chosen by the generality of the people) are to stand immoveable in the centre (as moderators) between all sects. They are, in regard of their office, as treasurers, who are entrusted with a sum of money to employ the same, not for their own, or any one's private advantage in particular, but for the benefit of all those that have intrusted them. If it were the magistrates work to set up a national ministry according to their own will, then we should be in danger to have as many religions as there be several ways of government in the world; and the magistrates, changing their opinion, the whole national ministry must also as often be changed. What is that then but to do his own will, instead of the will of God, and to have his pleasure upon the souls of men? It were better, and belongs especially to your office, not to follow the traditions of men, but to examine and reform the laws now in force, and to disannul such as are destructive and without mercy, contrary to the law of nature, and the revealed will of God, which ought to be, in all ages and in all countries,

only our rule. It is also your honours work and business diligently to consider what properly belongs to the office of a magistrate, before you put the sword and power of these nations into their hands; for, through want of care in so weighty a matter, the whole commonwealth is in danger (as in times past) to fall under the dominion of one particular sect, whose ministers (to bring the common people, and so the magistrates, under their jurisdiction) are commonly infecting with their forms not only the public meeting places and the houses of the poor, or hospitals, but also the schools, (called universities,) which have, by the subtilty of them in all countries, almost lost the name *universal*, by being misapplied to self ends and interests. Now, to reform these corruptions, it is necessary that the magistrates (whose work it is to have an eye to the good of all) do expel out of those public houses or colleges (being builded with the money of the commonwealth) all meer human forms of religion, that they may not longer make a trade and merchandize of the things of God, granting an equal liberty to all peaceable people, (as being but reason,) that such as have ventured their lives and estates in the time of war, should, in the time of peace, enjoy a like liberty with others; which may soon be, if you seriously consider the things all along propounded. Not that I am come unto England to be your instructor, but to bring to your honours remembrance those very things which have been upon your own heart, in order to the establishing of such a general liberty as hath been for many years of late pretended unto; being the only way wherein you may expect the blessing of God upon you and your posterity, against all oppressors, to the taking away of that shameful reproach that the magistrates and ministers in England have brought down the king and bishops rather to succeed in their places, than to bring the people to peace and happiness. If the power (to defend the good against the evil) in all countries be ordained of God, Romans xiii., then reason requires that all sorts of people, of what nations soever, being in one country together, should be protected, as well as if any of them severally was in his own; which cannot be, except there be a good public-minded and godly magistrate, that will suffer all sorts of people (of what religion soever they are) in one country, as God (the great magistrate) suffers the same in all countries of the world, which I expect first in England, and so from thence to break forth (as a light) to all other countries and nations, as having long enough walked (as in the night) by the glimpse of particular lights. It is time that the universal work of God (as the sun) do outshine all that is particular; to which end I implore the presence of the Most High God to be in your assembly, to guide and direct your hearts in all those things that may be acceptable to him, and most agreeable to his good will and pleasure.

Your honour's, and all men's humble servant,

London, the 24th of Jan. 1659. Holland's Stile.

PETER CORNELIUS VAN ZURICK-ZEE.

Give ear to the poor, for the cry of them is exceeding great in these nations.

Peter Cornelius, V. Z. (together with some others, Lovers of the common Good) to the mighty, potent, far-renowned (yet mortal) Lord, Oliver Cromwell, Protector of England, Scotland, and Ireland, &c. for the promoting of good Government, wisheth long Life, Wisdom, and foreseeing Counsellors of State, to the End, that his Actions may tend, not only to the convincing of all that envy him, but that also he may be a Light and an Example to all Dominions and Governments in the World.

Worthy, and (as I hope) favourable lord, being come into England during the time of your free government, I have, with much chearfulness, beheld the great freedom which this nation (since the putting down the authority of bishops) doth enjoy, which I hope, by degrees, will more and more prevail in the world, to the taking away of all force upon consciences, that men may be led and governed by reason, as men, and not as beasts, by compulsive power. And that those who are (once delivered from the antichristian captivity, may not be taken captive again by others; who, together with the great Antichrist, seek their own greatness; it is most highly necessary that the example of Christ (to reconcile all into one) should be followed; for those that force the conscience, being not able to bring all under them by worldly power, do commonly manifest their own inclination to be void of Christian love and forbearance, by gathering into sects and schisms, so that, besides the great Antichrist, there are many little Antichrists that endeavour to rise up; none of which, being able to endure any opposition or gainsaying, do seek to gain, and draw a part of Christendom under their jurisdiction. On the contrary, the Lord Jesus Christ hath taken captivity captive; that is, put those to shame that held others captive, by his ascension into Heaven, and gave gifts unto men, that they should not be led astray again, viz. he gave, as means to salvation, apostles, prophets, evangelists, pastors, and teachers; whose doctrine alone, while it is yet through God's mercy, as a measuring line or clue of thread in the world, we should set that on the throne, treading under foot all meer human traditions, as idolatry: That so all Christendom, being divided into divers sects (as formerly the Jews were) a general way of church-meeting may be instituted, for the hearing of God's word read, unaltered and unsophisticated, leaving a freedom for all sects, as well the one as the other, to assert their own apprehensions and understandings upon the lessons of their master, Christ, without being tied to one another's opinions.

For it belongs only to God and Christ to have dominion over consciences, and to magistrates to prevent any from exercising lordship over the consciences of others; in so doing they would be true maintainers and defenders of liberty, when they use not their power against those that assert their own meanings, but against those that would compel others to be of their opinions. For this, viz. to deal equally in matters of religion towards subjects, is not only good and pious, but is also the foundation of a good government. Whereas otherwise, when one sect shall be encouraged and commended to the church, and the other excluded, then jealousy and envy will spoil all; so that the magistrate, instead of being beloved, may often fear that their state will be undermined, and at length totally destroyed; especially, when that one party is become numerous, or do join with a foreign or home-bred enemy; wherefore, though they should want the fear of God, yet for their own peace sake, they should give freedom to all, and the rather, seeing thereby the noblest and best of undertakings are from all places invited and convened in: For whose wisdom-sake (as of Joseph's in Egypt) without respect of persons, they ought to be suffered to come in by the magistrate for the common good and welfare. So that there may not only be a refining in civil or politic, but chiefly in spiritual matters. For, as formerly amongst the Jews (when men began to believe

that the priests under the law could not err as to their institutions and traditions) God's commands were made void or of no effect: After the same manner also hath it been since the time of the apostles in Christendom, that instead of the holy Scriptures only (having been confirmed by miracles) which should be held a rule of faith, yet some (being lovers of themselves) have taken upon them a dominion jointly with Christ, giving out that men must believe and hold for truth whatever the church (viz. the bishops, or other superintendants thereof) do declare as truth, the common people not perceiving (by reason of the great respect which they bear to those that are set over them) that some of them seek to make themselves great, they have soon attempted to hold forth the authority of the Scriptures according to their own sense; upon which, when they have introduced matters contrary to reason, and people have refused to receive them for authentic, they have, by their acquired authority, hindered the people from so much as to speak or whisper against it; constraining them to believe what they say, and also to rely upon them and their absolution: And, to take away all scruple from the people, have given out that they will answer for them at the day of judgment; yea, moreover (which is far more terrible) will undertake to pawn their souls for theirs. By which persuasions, the people being in anxiety, fall into their bosoms, as in former times, in their gross darkness, oppugning the holy Scriptures, and the consciences of some, with greater earnestness, are resisted and rejected. Yet these being driven out by tyranny, and separated from popery, have commonly something of that sour leaven remaining in them to bind others to their opinions, making, as a foundation of their fellowship, new forms over and besides the holy Scriptures: Whereby they have not exalted Christ but themselves; they have not held close to that only name, which was given for men to be saved by, but many names, as heads of parties, according to the different forms they have brought into the world; whence great strangeness, making of parties, yea, sometimes war and horrible blood-sheddings have ensued; which have been managed, not for the sake of the holy Scriptures (which they all held for truth) but to keep up their own opinions: Till again, some more understanding men, perceiving the various differences of the forms and ways, and the mischief and wicked disturbance which this strife and variance in writings of disputations and controversy hath produced, have justly rejected all names and rules, besides the name and rule of Jesus Christ, living among them as men full of love and forbearance, whose understandings and life clash not against the holy Scriptures and sound reason, although they differ among themselves in apprehensions upon some places of the Scripture, but do continue in brotherly love and unity, by which forbearance, they do not only set others in the right way (so far as they are in the truth) but are also by others brought out of the way wherein they themselves did err, a thing which ought to bear sway with all men, according to the words of Christ (as you would that men should do unto you, so do you unto them also) that they should bear with one anothers opinions and conceptions, as they would themselves be borne withal in theirs. For it hath more the resemblance and appearance of compelling the consciences, and of tyranny, than of reason, to press any one to come up to another's apprehension, as necessary before he can apprehend it with his own understanding to be good and necessary.

This hath been in former ages the policy of persecutors and makers of sects and schisms, who not only have cast out by their power such whose understanding they could not bring to agree with theirs, but, being unable to do it, have made great broils, rents, and divisions in the world; whereas every one (since God is so long-suffering) ought with constant persevering love (without despairing in the work) to labour according to their power to enlighten others that are in darkness. For if those that have the light reject others, or depart from them, then the blind having no good leaders, must needs go astray, and, being led by the blind, fall into an abyss of ignorance. On the

contrary, all true lovers of the common good do labour not only to take out of the world factions, but also all human inventions (as much as in them lieth) that so the Lord Jesus may alone remain lord and master, whose saying they bear great honour and respect unto, although they possibly cannot understand the meaning of some particulars, yet, being confirmed by signs and wonders, do hold the same for good and true: In which thing, as to the salvation of man, they will put no trust or affiance in any besides Jesus Christ, nor yet receive any thing as truth, but that which they themselves can apprehend to be good and agreeable to his doctrine; therefore do they themselves not set up or own any authority whereby men should rely upon it, nor yet should give any others authority whereby to draw men into their party, but should bind all men unto Jesus Christ, whom they acknowledge only for head and saviour.

We desire from the bottom of our hearts that all men might be gathered together under that one name, and that your Highness (from whom almost every one expects some special work) will help to cleanse the christian religion and worship of God from all prevailing exorbitancies, and to that end would institute (as an eternal memorial and example to all dominions and governments in the world) in every city and in every county throughout England, Scotland, and Ireland, one general christian assembling or meeting-place, in such a form, that all people may see one another round about, by the help of seats rising by steps, having before them convenient leaning places to read and write upon; also one desk aloft, on one side or end, to hear the holy Scriptures read at a set time, giving freedom after that reading to all people orderly to confer together concerning the doctrine and instruction of their Lord and master Christ: That all lording over consciences being prevented, all people might come together without receiving any obstruction by any human forms or contrivances, even as the Jews, being divided into several sects (as Pharisees, Sadducees, Essenes, and Herodians, &c.) met together in one temple, so we would not deny any particular congregations of their freedom of peaceable meeting among themselves about the ordinances of Jesus Christ (as the orders or synagogues of the Jews were not at all infringed) nor bereave the ministers or teachers of their benefit which they do receive of their own people for their maintenance, for they, having a fit opportunity, may the better bring in their sense with others into this general church-meeting; that so the truth getting enlargement, the honest party may be resolved into unity, and the bad (that cannot endure the light) may be discovered and made known; who, only seeking dominion and rule, should not by any means be employed in high places, in matters civil or spiritual; that so the seat of government may not be usurped by their adherents when things go contrary to their minds (being cruel wolves) who, in seeking of their advantage will not spare the flock, over which the rulers (who should be placed to keep the people in order) ought especially to take care that they do not hinder them from the liberty of speaking freely, as it happeneth commonly in particular assemblies or congregations, contrary to the laudable practice of the Jews, Acts xiii. 15. who themselves, after the reading of the Scriptures, did invite and stir up Paul and Barnabas (being strangers) to speak. Hence (when understandings might be so free and uninterrupted) there would not only arise a clearing of the understanding and reforming of the lives of people, but also a yielding, submissive, condescending love; for the wisest and expertest men daily coming thus together to teach and to be taught, it would incline the hearts of those that should behold them, one towards another, which we may discern in worldly matters (as in making of treaties or peace with nations) whereas otherwise they being drawn up, and stretched beyond their present apprehensions by the supreme authority, they stand upon their guard in opposition to one another, as well in spiritual as civil affair. This now being so, it will especially concern your Highness, whilst the eyes of all are fixed

upon you, to set a complete example, that all people (that do slander you as to have no religion) may evidently perceive, that you do only maintain the Christian religion, and not countenance any other particular name or head whatsoever. For Jesus, the only heavenly teacher (who hath been long enough trod under foot by sectarians) ought to be set up above all; and that all men, as brethren be joined together, is the only way to abolish all lording over consciences; which hath already driven him out of his seat, and many hundred years since possessed his place, that at length the spiritual usurpation, with its antichristian dominion, may be laid down at his feet.

Thus doing, you will be accounted a follower of the example of the good King Josiah, 2 Kings, xxiii. who, to reform the Jews worship of God, threw down all chimerims and idolatry, and brought forth the book of the old covenant to the ears of the people; and all the people stood in that covenant. So will all Christendom (unless any would set up man to rule together with Christ) commend your diligent and wise forecast and circumspection, and pray for the prosperity of your estate, to the ruin of the Romish seat, which (together with all that would force consciences) hearing the report of this noble freedom will begin to tremble, yea, even their silenced children, whose mouths have been muzzled by compulsive restraint, will begin to speak; and so in time of need, seeing your free government, may come to shrowd themselves under your wings. To which God the Father, who beholdeth you and all mens actions, afford his grace through Jesus Christ. Amen.

To his Highness, Oliver Lord Protector of England, Scotland, and Ireland, &c.

Mighty, and (as I hope) prudent lord, being, by the loadstone of your free government, drawn to come into England, I have not only beheld the multiplicity of opinions, and various differences of sects (who have been long held together in a false peace) but also have laid before you an expedient (in my letter of the 24th of June) to bring them together to a true real unity.

I hope (seeing the bonds of Antichrist are in a great measure broken in England, by the effusion of much blood) that you, as a skilful pilot, will keep your hands at the helm, and your eye upon the sail, that so the little Antichrists, who seek to rule over consciences, may not bring your work to shame and reproach, by exciting you to tyranny, and thereby obstruct you in perfecting the same. For several princes and magistrates have formerly laboured to bring down Antichrist; but, not rightly knowing the nature thereof, have (unawares) not observed the little ones, while they oppose the great ones only, as bishops and others; and the little self-seeking ones to become great, have to their power helped the magistracy (as if themselves were enemies of the spiritual domination) only that they might succeed in the others places, which evidently appeared as soon as ever they began to take breath, in that they have instituted new forms (the cause of sects and parties) by framing new articles of faith, over and besides the holy Scripture, thereby to shut men up within the park or inclosure of their own opinions; by which means they set not up Christ in the hearts of men, but their own kingdom and dominion, which is idolatry. And the rulers being brought on their side, oppression hath been exercised upon such as have not worshipped their images (I mean their contrived forms) without life.

Now, to oppose these deceitful spirits, who, in an angelical humility and lowliness, come with great and lamentable complaints and petitions, the good magistrates, to the end they be not deceived, should, for the protecting of the innocent, be armed with a divine foresightfulness and circumspection; for they by all means (as if the magistrates could make their dead forms live) do incessantly implore the interposing their authori-

ty, well knowing that there is no better way to bring the common people (wherein the strength of a nation consists) under their jurisdiction, and do sometimes set the magistracy (which to govern well cannot be too high) by degrees higher and higher; yea, (upon hopes thereby to have their forms subscribed unto) resolve to make any body their king or emperor; being well assured, that when he hath thus given up his power to them, and set them on the throne, they may afterwards do with him what they will.

For the most part, all kings have lost their power, by giving too much authority to the ministry or teachers, and have become (instead of lords) servants; yea, (fearing the opposition of them and their followers) have for their sakes become tyrants.

Considering these things, the magistrates to whom (and not to the teachers) the sword is given for the protection of the good, should hold it fast, to prevent and frustrate all cunning and subtle practices; and, instead of giving ministers and teachers power and authority, should (by their general assemblies set up in all cities and countries) draw the common people out of their bosoms and dominion, that they may lose their usurped power, that so the sword may return into its right place, for which God hath ordained it, without the magistrates needing in their government to have dependence on the ministers or teachers, who are wont to incense the people against them. This (besides that the whole power will come into the hands of the magistrates) will bring many thousands a year to the commonwealth; for the people having opportunity to come into the general assemblies, out of love to hear many wise understanding men, will not need to give maintenance to the hirelings who lord it in particular congregations, whereby the magistrates (who now begin to lighten or ease the burden of maintenance) will be loved more than formerly. Then shall we first be able rightly to discern when the power is come into its right place, what the magistrates are, who now many times are accounted oppressors and evil governors; though it may be that oppression and evil government doth proceed more from the nature of the teachers than of the magistrates, who (now the way to make the teachers powerless is opened) will begin to appear more evidently than formerly, and the more, because the common assembling-place may be instituted for drawing off the people from the ministers in all places, without compulsion of any man, bringing all sects (without giving wages to any) as brethren to equal privileges: But if those that are of one and the same opinion will have particular congregations and set ministers, let themselves pay them as a master doth his servant; for it's no reason that a man should help to maintain another's servants; especially if they be such as (in his judgment) are soul-destroyers, who (being in his senses) would assist such enemies as do countermine him. Is it not to be wondered at, that the ministers (who would be esteemed more than the magistrates) should (to the shame of their church or congregations) desire wages of them for whom they have not laboured? Neither is it the mark of a true church, where the members thereof are so covetous and unmerciful, that they will not maintain or provide for their own ministers, and the teachers (loving the wages of unrighteousness) do (contrary to the tenth commandment) covet the goods of others, whereof the apostles and their congregations would have been ashamed to think, much less would do it: Yet, I hope, that once the conscience-burdening law of constraining to pay tithes to the ministers (who seek rather after lucre than the truth) for the rest of these nations will be made null and void; some course being taken to supply the necessities of the ministers, who, by such act (that none shall be forced to pay tithes to them) may be brought to a want of subsistence; and yet that this may be so done, only for those that are now made destitute, but no encouragement for any others in time to come; and by this the magistrates (while every sect maintain their own ministers) will be freed from laying such intolerable burthens on their subjects, having to provide for none else but those who are appointed in the general assemblies or meeting-places to read the holy Scriptures, and

keep the people in order; to shew that they are no maintainers of sects, but of the Christian religion, being as fathers and mediators to bring the good together out of all sects to unite under the name of Jesus, to the end that his kingdom and government may be enlarged for an example to Holland, Denmark, Sweden, France, and other kingdoms, who, seeing there is no force or constraint used, will easily be brought to a firm bond of unity. This being the only means, by forsaking all men and human forms, to be blessed by Christ (whose honour only is sought) against the Antichrist, contrary to the way of other kings and princes, who, being separated from popery, have made themselves unworthy of the blessing of Christ, by giving honour to the bare name of Luther, Calvin, and others, instead of giving it to Christ, having been deceived by the little Antichrists their followers, who, as well as the great one, seek their own glory, ease, and idleness; and, as if they had no fellowship with the great Antichrist, have put the holy Scriptures into the common people's hands, which before was prohibited to be read, only seeking that we should agree with them in their forms, applying and fitting themselves (such is their subtlety) to the temper of the times, as a fowler gives scope to a bird he hath already in a string, that so at length it may be content to live in a cage. Now against these little Antichrists (who, under the name of giving liberty, would bind people to their opinions) the magistrates (being taught by experience) should as well counter-work, as against the great, that they may come to the very root, bringing the holy Scripture (which was formerly prohibited to be read) with great triumph into the general assembly or meeting place, and set it on high, to the end that the sound or report of this, to wit, that Christ alone must rule (by his word) in the hearts of men among all nations (according to the great work done in England) may be heard, giving liberty to every one, after the reading of the Scripture (contrary to the little Antichrists, who, will have it understood only according to their own forms and expositions) to set forth his own apprehension, without being bound to any one's opinion: That spiritual matters being applied to spiritual, Antichrist may be stormed with two armies, viz. the truth against error, and the material sword against oppressors, who, by their arrogating disposition and exclusion of others, do seek to restrain the liberty of speaking, which discovers the errors of the understanding for the cure thereof; whereas, by stopping the mouths of the people (as heretofore) they make men incurable.

Now to further this, that the weakness or ignorance of some may be remedied by the knowledge of others, without disturbance or confusion, it will be necessary that the authority of the magistrate interpose in this general assembly or meeting-place, that every one may speak in their order, staying their time; and those that break order may (after due warning) be ejected till they are better disposed, without oppressing them by imprisonment or otherwise.

This would be glad tiding, yea, a true year of jubilee, for those that lie in prison, only for asserting their opinions in matters of religion; that now they may (together with others) bring in their understandings into this general assembly to receive or give light: And to the end that Antichrist (or he that exalts himself above others) may be continually shut out, it is exactly to be observed, that no preheminence or sole privilege be granted to any (of offering any thing, or of speaking first) that so every one being at liberty and unhindered, may bring forth that which is most conducing to the common welfare, according to the words of Paul, 1 Cor. xiv. 26. All of them sitting still so long after the reading of the Scriptures (as being swift to hear and slow to speak) till any one think it fit (in his judicious and humble mind) to propose somewhat for mutual edification, endeavouring withall to make his discourse short, that another may have his turn likewise, contrary to the custom of the common teachers, who only, or solley speaking, do lengthen out their discourse to the weariness of their auditory;

for which end the moderators (who ought to be meek and understanding men) are to observe that there be due order kept.

This (seeing no forms or articles are made in it beside the holy Scripture) will be a council and synod, standing always open to all rational people, without imposing any man's conclusions, contrary to the former assemblies, who have excluded all nations and posterity, (by their self-conceitedness,) dividing people, as by a wall of separation, one from another by their forms, whereupon great estrangement hath ensued, as if they were different nations; and, the better to set up their antichristian kingdom and dominion, have so contrived their catechisms, that they have bound up, and so spoiled the understanding of their children, before they come to have the use of reason, holding their dependants, or members, captive under them in their net, as beasts, contrary to the order of their creation, well knowing that if they gave them the liberty of speaking, they would not be long worshipped as idols, or sacrificed to as Bell at Babel.

Contrariwise, people in the general assemblies, when all understandings and tongues are free, will be stirred up to the exercise thereof, and, by conferring together, will come to knowledge, love, and familiarity. The truth (which hath been long kept under, or with-held in unrighteousness) will scatter the lies, as light doth darkness; and the great credit which we have given to some teachers in particular, will, by opposition, be diminished, and the power of all sects (the one dispelling the errors of the other) will be broken.

This will be the place where we shall discern and learn to know the most wise, as Solomon, and meek as Moses, which, out of all sects, (only such as seek to domineer over others excluded,) may be appointed as counsellors, to keep steady the balance of government, without respect of persons, to the end that the spirit of God be not confined, which will be a sure mark that wisdom (for the sake of which kings, in times past, were blessed) is (under this government) esteemed above gold and silver, being the principal to distinguish all things, chiefly policy from religion, for the common good; for magistrates (if they would remain without usurping the office of Christ) may not make laws in matters of religion, but against evil deeds, to protect the good, to the end that their subjects (from whom they receive taxes and impositions) may be protected in peace, of what religion soever they are; for the power to punish evil doers is ordained of God in all lands, without respect of religion; and whosoever opposeth that power, opposeth the ordinance of God; not that all officers (though they rule ill) are of God, or are his ministers, but those only who administer their office rightly, according to God's will; otherwise, those who heretofore have risen up against tyrants, opposing their persons, should have been indeed opposers of God's ordinance, contrary to that of the apostle, Rom. xiii., who hath said, that such as are the ministers of God are continually employed in the defence of the good, until they have, by false teachers, been drawn besides their office, to domineer over consciences, and so brought into the service or ministry of Satan, to the grief of their subjects.

But I hope that once the sword (which hath been with-held from lyars and oppressors) shall cut them off, together with the cable of their hope, (the tithes,) that so the ground of almost all oppression being taken away, not only the subjects, but also the magistrates, may live in peace, who are now continually liable to hear the complaints of the head sectaries, who seek to domineer over others, it being the nature of such, who, finding their own weakness, do make power and force their refuge, contrary to the example of Christ and the primitive saints, whose strength was only the evidence of truth. Wherefore all people, and chiefly magistrates, are to take heed that they assist not lies, using their power (according to God's ordinance) only against those that are to the prejudice of good government, or the hurt of mankind in general, without mingling policy and religion, which were ordained for several ends; the one to defend

the good men against the evil, and the other to make the evil good. There remains only, that the magistrates (for an example to their subjects) do null all human commanding and constraining laws in spiritual matters, that so all plants which the heavenly Father hath not planted may (according to the saying of Christ) be rooted up, which will best take effect when the dominion of the teachers is, through the power of the governors, come to an end, and their hope of domineering over others cut off; for magistrates, instead of lording it over consciences, ought, on the contrary, to hinder all lordship over consciences, that complaining and murmuring may come to an end, and that the righteous may rejoice.

For which end, that we may transmit the world unto our posterity in a better condition than we first found it, I have contributed this little to my power.

I beseech your Highness let not any pre-engagement oblige you to what you may afterwards see inconsistent with the magistrates true interest, with the due liberty of God's people, and the free propagation of the gospel. It were better for you, and more for your honour, with Ahashuerus, to contradict your own hand and seal, than, with Herod, to perform a rash engagement.

But, while it is yet in your Highness's choice, let not the right-hand of brave atchievements, for the vindication of liberty, be ever stained with authorizing (to the honour of men and dishonour of Christ) any confession of faith, ordinance, or decree, which will in the least entrench thereon, or indulge the enemies thereof. Be not deceived by such persons as pretend to advance your honour, as in the time of Daniel was done to King Darius, that the good people in those and other nations may not be disappointed of their hope and expectations in you.

I do wish, for conclusion, that your Highness and all your counsellors of state, to the bringing down of Antichrist and all his adherents, may have a great heart, and humble under God and Christ, that the great work done in England come not to the honour of a mortal man, but to the honour of him who hath received the power over the kingdoms of the earth. "Be wise as serpents and innocent as doves."—Matth. x. 16.

"O Lord of all lords and magistrates, teach them that rule as gods in the world to consider that they are but men in thy eyes; that they may handle their subjects after such a manner as they wish to be handled by thee in thy judgment."

A faithful Memorial of that remarkable Meeting of many Officers of the Army in England, at Windsor Castle, in the Year 1648. *As also a Discovery of the great Goodness of God, in his gracious Meeting of them, hearing and answering their Suit or Supplications, while they were yet speaking to him. All which is humbly presented, as a precious Pattern and Precedent unto the Officers and Soldiers of the said Army (or elsewhere) who are, or shall be, found in the like Path of following the Lord in this evil Day, searching and trying their Ways, in order to a thorough Return and Reformation.*

By William Allen, late Adjutant-General of the Army in Ireland.

PROV. i. 23. Turn you at my reproof: Behold, I will pour out my spirit unto you, I will make known my words unto you.

Printed in the Year 1659.

The army, like all other classes of people during this eventful period, was divided into factions. The principal faction was that of Wallingford-House, which consisted of Fleetwood, Desborough, and others, who, although they retained their partiality for a military dominion, were disappointed in the share which had been allotted to them in that of Richard.—Secondly, Whalley, Ingoldsby, Howard, and others were disposed to support Richard Cromwell.—Lastly, there were the Independents, and other fanatics, who desired, or rather expected, a sort of government hovering betwixt a republic and a theocracy, and who inclined to the one or the other, as their political feelings or their enthusiasm was most prevailing. The following memorial seems to have been addressed to the Wallingford-House party, by one of the third faction, and, amid the zeal it discovers for the "Good Old Cause," to use the phrase of the times, smells not a little of ball and gunpowder. If any precise object can be discovered in this extraordinary tract, it is that of bringing before the eyes of Fleetwood and his military council, the same vague visions of policy and fanaticism that inflamed the army when they resolved on the death of Charles I., and accordingly the appeal is made to the conduct of the army preceding his trial, as if the councils, which had generated the monstrous confusion subsequent to the king's death, were the most likely to remedy that which had followed the decease of the protector.

In the midst of these turmoils, all parties forgot the pathetic exhortations of Richard Cromwell's Lord Keeper, and the assurances he had given them that the government was now settled on a steady basis. The reader may compare the style of the civil with that of the military politician.

"Into what condition" said the Lord Commissioner Fiennes, "the late wars and distractions had brought these nations, and what a cloud of darkness had covered the whole face of the government (being void and in a manner without form) we all know, and the three nations sadly felt; and were sensible of those further confusions that might have ensued. But it pleased God that light sprung up among us, and things began to move towards something of order and consistency.

"But as yet the earth and water were in one mass together: Then were the waters beneath the firmament divided from those above the firmament; there was constituted a chief magistrate and a parliament, the one distinct from the other, that each one from his proper place might the better put forth its influence and usefulness for the good of the whole.

"After it pleased this parliament, by their humble petition and advice, to distinguish the parliament also into two houses; and that great and noble body of the waters retiring into their own receptacle, the dry land appeareth.

"And what now remains but that, by the sweet influence of that powerful spirit that moved upon the waters, every herb should bring forth seed according to its own kind; and that the sun, moon, and stars, the ordinances of magistracy and ministry, should shine brightly in the firmament of heaven, in their greater and in their lesser lights, according to the proportion that God hath dispensed to each one, and that fish and fowl should multiply in the waters and in the air, and that beasts of all sorts increase in the earth; that all trades, all professions, all ranks and degrees of men might be subservient to that sound, Adam and his spouse, Christ and his church, that they may be formed and set up amongst us, and placed in a garden of Eden with all freedom, without fear or disturbance; they may enjoy all spiritual delights, and have communion with one another and with God, which, though last in execution, I hope always was, and always shall be, the first and chiefest in our intentions.

"The holy angels of God, when the foundations of the earth were laid, did not say, Here is a rude mass of earth and water; here is indeed a little light; but where is heaven, sun, moon, and stars; nay, where is man made after the image of God? But, on the contrary, as is witnessed from the mouth of God himself, when the foundations of the world were fastened, and only the corner-stone thereof laid, the morning stars sang all together, and all the sons of God shouted for joy. From whence we may discover one, and that a most dangerous rock, which, if not heeded, we may split upon. It is a spirit of discontent and dislike of the present dispensations of God, because all things are not perfect in an instant, and such as it is to be wished they were, and such as possibly, in God's due time, they may be."—WHITELOCK'S *Memorials*, p. 667.

To Lieutenant-General Fleetwood, and other the Officers of the Armies in England, Scotland, and Ireland, especially such of them who, in the Sense of the Dangers of the Day, have been of late (as is said) betaking themselves to that most necessary Duty of solemn Addresses and fervent Supplications to the Lord, humbling their Souls before him, in the Sense of their own and others Abominations abounding in this Day, with unfeigned Desire and Endeavour to find out and forsake them accordingly, with all others in the Armies, that are or shall be found searching and trying their Ways in order to return, the following Narrative is humbly tendered by a late Member of them, and now a Mourner for them, yet unfeignedly desiring their Prosperity in the Path of Repentance.

HAVING understood that you have of late been much conversant in seeking the Lord, in this day of distress, and enquiring (as becomes you) into the causes of his displeasure against us, (which seems to wax hot,) all which, if performed in a right sense, observing right rules and ends, may be of singular use to help in time of need. Yet, knowing the aptness of my own, with others hearts, to miscarry in such duties, and thereby miss of the desired success, by either setting up the stumbling-block of our iniquity before our eyes, or having any secret regard thereto in our hearts, the effect of which is to shut out prayer; I held it my duty to contribute my mite to this work of weight, by presenting you with a precedent once famous amongst us, by the success the Lord crowned it with, and us in that path, in a day of very great distress round about, and desire, that so far as you shall see this practice here presented, with the method therein observed, to agree with the revealed will of God contained in the Scripture, relating to the duty of his people, in such a posture that you will not be afraid to make it your pattern, since the Lord hath formerly borne such a witness to it, and written such blessing upon it as may well be set up as a pillar of remembrance in the midst of us, to his praise, as well as our direction to, and in like duties in future streights.

In the year 47, you may remember we in the army were engaged in actions of a very high nature, leading us to very untrodden paths, both in our contests with the

then parliament, as also conferences with the king, in which great works wanting a spirit of faith, and the fear of the Lord, and also unduly surprized with the fear of man, which always brings a snare, we, to make haste, as we thought, out of such perplexities, measuring our way by a wisdom of our own, fell into treaties with the king and his party, which proved such a snare to us, and led into such labyrinths by the end of that year, that the very things we thought to avoid, by the means we used of our own devising, were all, with many more of a far worse and more perplexing nature, brought back upon us, to the overwhelming our spirits, weakening our hands and hearts, filling us with divisions, confusions, tumults, and every evil work, and thereby endangering the ruin of that blessed cause we had, with such success, been prospered in till this time; for now the king and his party, seeing us not answer their ends, began to provide for themselves, by a treaty with the then parliament, set on foot about the beginning of 48. The parliament also was, at the same time, highly displeased with us for what we had done, both as to the king and themselves; the good people likewise, even our most cordial friends in the nation, beholding our turning aside from that path of simplicity we had formerly walked (and been blessed) in, and thereby much endeared to their hearts, began now to fear and withdraw their affections from us in this politic path into which we had stept and walked in, to our hurt, the year before: and as a farther fruit of the ways of our own back-sliding hearts, we were also filled with a spirit of great jealousy and divisions amongst our selves, having left that wisdom of the word that is first pure and then peaceable, that we were now fit for little but to tear and rend one another, and thereby prepare our selves, and the work in our hands, to be ruined by the common enemy, as these that were ready to say, as many others of like spirit in this day, of the like sad occasions amongst us, "Lo, this is the day we looked for." The king and his party prepare accordingly to ruin all, by sudden insurrections in most parts of the nation, the Scot concurring with the same designs, comes in with a potent army under Duke Hamilton. We in the army, in a low, weak, divided, perplexed condition in all respects, as aforesaid, some of us judging it a duty to lay down arms, and quit our stations, putting our selves into the capacities of private men, since what we had done, or was yet in our hearts to do, tending, as we judged, to the good of these poor nations, was not accepted by them.

Some also encouraging themselves and us to such a thing, by urging for such a practice the example of our Lord Jesus, who, when he had borne an eminent testimony to the pleasure of his Father, in an active way, sealed to it at last by his sufferings, which was presented to us as our pattern for imitation.

Others of us were different minded, thinking something of another nature might be farther yet our duty, and therefore were, by joint advice, by a good hand of the Lord, led to this result, viz. to go solemnly to search out (and humble our souls before the Lord in the sense of) our iniquities, which, we were persuaded, had provoked the Lord against us, to bring such sad perplexities upon us as at that day, out of which we saw no way else to extricate ourselves.

Accordingly, we did agree to meet at Windsor Castle about the beginning of 48, and there spent one day together in prayer, enquiring into the causes of that sad dispensation. Coming to no farther result that day, but that it was still our duty to seek, and on the morrow we met again the morning, where many spake from the word and prayed; and the then Lieutenant-General Cromwell did press very earnestly on all there present, to a thorough consideration of our actions as an army, as well as our ways particularly, as private Christians, to see if any iniquity could be found in them; and what it was, that if possible we might find it out, and so remove the cause of such sad rebukes as were upon us by reason of our iniquities, as we judged at that time. And the way more particularly the Lord led us to herein, was to look back and consider what

time it was that we could with joint satisfaction, say, to the best of our judgments, the presence of the Lord was amongst us, and rebukes and judgments were not as then upon us: Which time the Lord led us jointly to find out and agree in; and having done so, to proceed, as we then judged it our duty, to search into all our public actions as an army, afterwards duly weighing (as the Lord helped us) each of them, with their grounds, rules, and ends, as near as we could; and so concluded this second day with agreeing to meet again on the morrow; which we accordingly did upon the same occasion, re-assuming the consideration of our debates the day before, and reviewing our actions again, by which means we were, by a gracious hand of the Lord, led to find out the very steps (as we were then all jointly convinced) by which we had departed from the Lord, and provoked him to depart from us; which we found to be those cursed carnal conferences, our own wisdom, fears, and want of faith, had prompted us the year before to entertain with the king and his party: And at this time, and on this occasion, did the then Major Goffe (as I remember was his title) make use of that good word, Prov. i. 23. "Turn you at my reproof," &c. which (we having found out our sin) he urged, as our duty, from those words, and the Lord so accompanied by his spirit, that it had a kindly effect, like a word of his upon most of our hearts that were then present, which begot in us great sense, shame, and loathing our selves for our iniquities, and justifying the Lord as righteous in his proceedings against us: And in this path the Lord led us not only to see our sin, but also our duty; and this so unanimously set with weight upon each heart, that none was able hardly to speak a word to each other for bitter weeping, partly in the sense and shame of our iniquities of unbelief, base fear of men, and carnal consultations (as the fruit thereof) with our own wisdoms, and not with the word of the Lord, which only is a way of wisdom, strength, and safety, and all besides it ways of snares; and yet were also helped with fear and trembling to rejoice in the Lord, whose faithfulness and loving-kindness we were made to see, yet failed us not; but remembered us still, even in our low estate, because his mercy endures for ever. Who no sooner brought us to his feet, acknowledging him in that way of his, viz. searching for, being ashamed of, and willing to turn from our iniquities, but he did direct our steps, and presently we were led and helped to a clear agreement amongst ourselves, not any dissenting, that it was the duty of our day, with the forces we had, to go out and fight against those potent enemies, which that year in all places appeared against us, with an humble confidence in the name of the Lord only, that we should destroy them; also enabling us then, after serious seeking his face, to come to a very clear and joint resolution, on many grounds at large then debated amongst us, that it was our duty, if ever the Lord brought us back again in peace, to call Charles Stuart, that man of blood, to an account for that blood he had shed, and mischief he had done to his utmost, against the Lord's cause and people in these poor nations: And how the Lord led and prospered us in all our undertakings this year, in this way, cutting his work short in righteousness, making it a year of mercy equal, if not transcendant, to any since these wars began, and making it worthy of remembrance by every gracious soul, who was wise to observe the Lord and the operations of his hands, I wish may never be forgotten; bringing us together again from all parts shortly after with admiration; each one's heart, as it were, filled with the wonders beheld, and occasion given to all to say each to other, Lo, what hath God wrought! the king's armies in all places broken, his strong holds most of them taken; he himself all that time treating with the then parliament, and both of them desirous to conclude, yet by an over-ruling Providence hindered, and the king so infatuated, as he stands disputing punctilios till he loses all, and himself with it, and is fetched away from his place of treaty to a prison, in order to execution, which suddenly followed accordingly; and all this done within less than three quarters of a year, even to astonishment of our-

selves, and other beholders both at home and abroad; yea, our very enemies then were made to say, God was amongst us of a truth, and therefore they could not stand against us.

But, alas! who would have thought that so few years would have worn out the memory of such a not-to-be-forgotten mercy, or that any of those that then saw his works and sang his praise, should so soon forget what their eyes had seen, as not to wait for his faithful counsel in future streights! Yet behold, how some directly, and others consequentially, are now saying all these things were but the product of a potent politic party flushed with success; and others, though more modest and moderate, yet, it is to be feared, in too eager a pursuit of falling in with, or fear of being hurt by what is uppermost, if not timely complying, at once in the lump adventure to cry up absolute obedience to the powers that are, though thereby they condemn themselves and others as transgressors and rebels for opposing those that were; together with the whole series of action made glories by God's appearance with us, beyond parallel of any late years: And thus doth the name and works of the Lord suffer (as Christ of old) between these two, who almost equally, though not alike intentionally, rob the Lord of his glory, and give great occasion to the worst of our enemies the more to blaspheme.

This is the brief, yet true account of this matter, with the blessed effects of it, as a manifestation of the Lord's inclination and disposition to poor returners; who is still the same, because he hath said, and will perform it, as in Jer. xxix. 12, 13. "Then shall ye call upon me, and ye shall go and pray unto me, and I will harken unto you. And ye shall seek me and find me, when ye shall search for me with all your hearts." And I have a little hope that this precious pattern, thus presented, may not be without some use to you in this day, if the Lord lead your hearts rightly to consider it.

That we are a poor, broken, divided, intangled, bewildered people, in our public affairs, none but they that are very great strangers in our Israel can be ignorant: For who hath known and observed former days, when the candle of the Lord shined on our tabernacles, by the light of which we walked through darkness, and shall compare those days with these four or five years past, can look upon them without a heart deeply affected, to think what once we were (when we followed the Lord, though in a land that was not sown, when we were a more plain simple-hearted people, yet prospered by the Lord, to the terror of enemies abroad and at home, through an imminent presence of God with us,) and what now we are, since we have turned aside into the carnal, empty, formal shews of the nations, admiring (and acting by) their policies, and saying a confederacy with them, fearing their fear, and not sanctifying the Lord in a way of believing: How are we become the tail, and not the head, a hissing, yea, a scorn to the basest of nations! What rebukes at sea, at land! What disappointments of enterprizes! What strokes on many formerly eminent public instruments! What impoverishing of these poor nations, by decay of trade in all parts, to the ruin of many! What sore visitations, and of long continuance on the nations throughout, by deaths and lingering pining diseases! Yea, what heart-dividings are amongst those that have been as one stick together, used in the hand of the Lord, in his works of wonder in the midst of us, and thereby endangering the whole interest we have fought for, into the hands of such as are known enemies, or at best have been but faint friends to it and us in days of distress? And are not all these things worth considering and enquiring into by every gracious heart, with the causes of them? For sure the Lord afflicts not without cause, nor grieves not the sons of men willingly.

And would you enquire aright, pursue the method laid down in the case presented; enquire when could you with joint satisfaction say, At such a time the presence of the Lord was with you; and these sore hands of displeasure, that have of late years attend-

ed you, were not upon you, nor works in your hands as now. And if you can but find that, let me advise and beseech you, as you tender the delivery of your own souls and good of these nations, weigh action by action since, and see where you have gone out of that prosperous path you were formerly in, and fear not to look into any action you are or may be concerned to look into, in which you think evil may be at the bottom; for that remaining, will cause greater shakings than the most strict enquiry you make can do: And consider what as an army you have done, with the grounds of it, and what you have engaged before God, angels, and men. to do; and either, if it be your sin, make your repentance as public as your evil hath been, and so clear yourselves; or else, up and be doing whatever you judge your duty, in the face of whatever difficulties you meet with; and in that path doubt not of God's being with you, while you are with him: But if you will neither pursue your duties in one respect or other, know of a certain, the Lord, who is a jealous God, will not be mocked by any that is not stronger than he, but will be above men, and make them know, he will be so in those things in which they deal most proudly, and deliverance shall arise some other way, with sore rebuke to you for your shameful neglects of duty in such a work of weight which you have been intrusted with, and must ere long be called to an account how you have discharged it.

Alas! may we not say, and shall we be afraid to say, we, our rulers, prophets, armies, people have sinned; yea, have grievously departed from the Lord, and help nor healing is not to be had, but in returning from what evil so ever is in our hands or hearts! It is not power, nor policy, nor foreign confederacies; it is not prayers, though frequent, or seemingly fervent, no, though attended with tears and confessions, without thorough forsakings, will be a path of safety for us, Isa. lviii. No, the voice of the Lord is plain to rulers, armies, people, "Thus saith the Lord, consider your ways: Why do we labour in the fire for very vanity?" Why is wisdom hid from the prudent? Why do we sow much in prayers, tears, confessions, and hazardous undertakings at home and abroad, and bring in little, and what we get is, as it were, put into a bag with holes, and the Lord, in a way of rebuke, seems to blow upon it? Is it not that we should consider our ways! Oh search and try, yea call in the help of God and good men in this, to see if there be any way of iniquity in your hearts or hands, and clear yourselves of it, with manifesting most indignation against it. And for your help herein, if it may be, let me humbly caution you to take heed of advising only with such that may be most pleasing to you; self-love is apt in such cases to blind much: Yea, or with such only, or chiefly, that are or may be under the influencing power of profitable employments, steered by the favours, or fear of the frowns of rulers; but rather with such who have been persons of known integrity, and ancient constant friends to the good old cause of God, and their country, in all vicissitudes and lowest ebbs; not, Shimei-like, cursing and deserting in a day of distress, and changing their languages when it tended to the change of their conditions for outward advantage; but such as have not been pleased with their highest, most profitable promotions and preferments, when they could not see the cause of God and their country promoted also; and let not those names of odium, of dissatisfied, &c. (that they have been clothed with, the better to answer the evil designs of some) affright you in this matter: And if you dare thus pursue duty in this path of simplicity presented to you, without setting up the stumbling-block of any other of your iniquities before you, I am persuaded (not without many demonstrable grounds producible from the world) you will find it a path of peace, through the Lord's blessing it; and you, in the sincere applying to it, will be directed and led to grounds more clearly laid, for an unanimous, vigorous prosecution of the old dying cause, by its best and truest friends, than hitherto you have found; or at least will find it effectual, to the rescue of your own souls out of paths of danger,

which, for want of pondering according to the word, you may be walking in to your great hurt. And, therefore, let me beseech you in all sincerity, as you tender your own and these poor nations welfare, apply to it with speed. For your betaking yourselves to any other courses will prove fruitless as aforesaid; for the Lord hath smitten, and only can heal; and if ever he do, he will do it in this way, Hos. v. If what I have proposed prove any way advantageous to the ends for which it is offered, viz. to cause you to search, try, and turn from the evil of your ways, I have my end, and let the Lord have glory: But if this poor means, in much faithfulness and tenderness presented to you, be rejected or slighted by you, I shall, I hope, be enabled to mourn in secret for you before the Lord; and shall have this satisfaction, when I shall come to lye down in the dust, which how soon it may be I know not, that I have, in some measure, delivered my own soul, and endeavoured the like for yours; and shall earnestly intreat the Lord, that this poor word of warning, amongst many others in this day presented to you, may not one day meet you, as a witness against you, for not regarding it: For I am well assured it shall live, speak, and have its fruit, when you and I shall cease to be.

WILLIAM ALLEN.

Postscript.

This paper was sent to the press about six weeks since to have been made public at that time; but, by an unexpected obstruction, hath hitherto been hindered: But hoping it may be yet of some use, is therefore now published.

April 23d, 1659.

A Declaration of the Officers of the Army, inviting the Members of the Long Parliament, who continued sitting till the 20th of April, 1653, to return to the Exercise and Discharge of their Trust.

Friday, 6th May, 1659.

Ordered by the Lord Fleetwood, and the General Council of the Officers of the Army, That this Declaration be forthwith printed and published.

THOMAS SANDFORD, *Secretary.*

Printed in the Year 1659.

The irresolution of Richard Cromwell having entirely discountenanced his partizans, the council of officers at Wallingford-House took the resolution of dispossessing him of the government, and, being supported by the soldiery, very speedily ended his short protectorate. But, finding themselves unable to contrive any thing resembling a lawful authority in their own persons, their leaders entered into a treaty with such members of the Long Parliament, as continued to sit after Colonel Pride's Purge had expelled the presbyterians, and which, from that circumstance, was called the *Rump*. Whitelocke sums up their reasons for this conduct in a few words.

" 5th May.—All matters were at a stand; the army had thoughts of raising money without a

parliament, but, upon advice, they durst not venture upon it; they thought it a safer way to restore the members of the Long Parliament.

" The great officers of the army were advised to consider better of their design of bringing in the members of the Old Parliament, who were most of them discontented for their being formerly broken up by Cromwell, and did distaste the proceedings of the army; and whether this would not probably more increase the divisions, and end in bringing in of the king; but the officers had resolved on it."—WHITELOCKE, p 678. The fruit of this resolution was the following proclamation.

THE public concernments of this commonwealth being, through a vicissitude of dangers, deliverances, and back-slidings of many, brought into that state and posture wherein they now stand, and ourselves also contributing thereunto, by wandering divers ways, from righteous and equal paths; and although there hath been many essays to obviate the dangers, and to settle these nations in peace and prosperity, yet all have proved ineffectual, the only wise God, in the course of his providence, disappointing all endeavours therein.

And also observing to our great grief, that the good spirit which formerly appeared amongst us, in the carrying on of this great work, did daily decline, so as the Good Old Cause itself became a reproach; we have been led to look back, and examine the cause of the Lord's withdrawing his wonted presence from us, and where we turned out of the way, that through mercy we might return and give him the glory.

And, amongst other things, calling to mind, that the Long Parliament, consisting of the members which continued there sitting until the 20th of April, 1653, were eminent assertors of that cause, and had a special presence of God with them, and were signally blessed in that work (the desires of many good people concurring with ours therein) we judge it our duty to invite the aforesaid members to return to the exercise and discharge of their trust, as before the said 20th of April, 1653.

And therefore we do hereby most earnestly desire the parliament, consisting of those members who continued to sit since the year 1648, until the 20th of April, 1653, to return to the exercise and discharge of their trust, and we shall be ready in our places, to yield them, as becomes us, our utmost assistance to sit in safety; for the improving present opportunity for settling and securing the peace and freedom of this commonwealth; praying for the presence and blessing of God upon their endeavours.

Signed by direction of the Lord Fleetwood, and the Council of Officers of the Army.

6th May, 1659. THOMAS SANDFORD, Secretary.

Which declaration was this day presented to the Speaker by

The Lord Lambert,
Lord Berry,
Lord Cooper,
Sir Arthur Hesilrig,
Major-General Lilburne,
Colonel Ashfield,
Colonel Salmon,
Sir Jerome Sankey,
Major-General Kelsey.
Colonel Okey,
Captain Blackwell,
Major-General Haynes,
Lieutenant-Colonel Allen,
Major Packer,
Lieutenant-Colonel Pierson.

A Declaration of the Lord Protector, and both Houses of Parliament, for a Day of solemn Fasting and Humiliation, to be observed in all Places within the Commonwealth of England, Scotland, and Ireland, upon the Eighteenth Day of May, 1659.

Although Richard Cromwell was virtually displaced, and the Long Parliament was summoned by the officers to resume its functions, yet it appears from this tract that his name was used in public acts until 25th May, when he acquiesced in their authority, and formally resigned his own.

We look upon it as a duty incumbent upon us, who are set upon the watch tower, to declare what we see, and seriously weighing the condition of these three nations by God's ways towards us, and our ways towards him, and the present posture of affairs among us; we cannot but have sad thoughts and apprehensions of the tokens of God's just displeasure against us; as for the ways of the Lord, wherein he hath walked towards us, they have been ways of multitudes of mercies in vicissitudes of dangers: For, in the saddest dispensations of his providence towards us, he hath in the midst of judgment rember'd mercy; and hath seemed to say, as of old to Ephraim and Israel, how shall I give thee up, England? how shall I deliver you, Scotland and Ireland? how shall I make you as Admah? how shall I set you as Zeboim? My heart is turned within me, my repentings are kindled together, yet we cannot say that his wrath is turned away, but his hand is stretched out still; for though we have been emptied from vessel to vessel, yet we can find no rest or settlement; we see not our signs, nor any that can tell us how long: This is a lamentation, and if our ways towards God in all this be considered, it must be for a lamentation; for, instead of humbling ourselves under the mighty hand of God, and meeting him in the ways of his judgments, we turn our backs upon him, cast him out of mind, vex his holy Majesty with our murmurings and complainings of events, repining at the miscarriages of instruments; envying, censuring, and fretting against one another; no man in the mean time laying his hand upon his own heart, saying, what have I done? how highly is God provoked by our great apostacy and backsliding, arising chiefly from want of receiving the truth in the love thereof, whereby these nations are overspread with many blasphemies and damnable heresies against God himself and his glorious attributes; against the Lord Jesus Christ, his person, his offices, and his merits; against the holy Spirit; against the word of God, the only rule of faith and life, by denying the authority thereof, and crying up the light in the hearts of sinful men as the rule and guide of all their actions, besides many other abominable errors, which have opened a wide door for the letting in of the most horrible contempt of the ordinances and institutions of Jesus Christ, of the ministers and ministry of the glorious gospel, together with the growth of gross ignorance, atheism, and profaneness of all sorts, such as are vain swearing and cursing, profanation of the Lord's-day, drunkenness, uncleanness, and other ungodly courses,

for which the land mourns: And, besides all this, (that which should be cause of deepest humiliation to us, and is of high provocation to God) is the great scandal given by professors, and the sad divisions amongst them, whereby religion hath been so wounded in the house of their friends: And that which makes these abominations the more national (and gives us the more cause to be humbled for them) is the too much remissness and connivance of the civil magistrates (to whom belongs the care of maintaining God's publick worship, honour, and purity of doctrine, as well as of punishing all sins against the second table) in permitting the growth of these abominations, by suffering persons under the abuse of liberty of conscience to disturb the publick ordinances, and to publish their corrupt principles and practices, to the seducing and infecting of others: And that which makes all those sins to be out of measure sinful is, that they are against so many signal deliverances and mercies under such a glorious sun-shine of the gospel, and contrary to so many covenants, vows, and protestations, personal and national. Nor are we in this day of our humiliation to forget the judgments of God, whereby he gives these nations tokens of his displeasure: That in the midst of all our changes and unsettlements, he hath still left us in the dark, and hid counsell from the wise; so that hitherto we have not attained unto that happy settlement in church and state, which hath lain so much upon the spirits, and hath been so much in the prayers and desires of all that fear him: That there hath been so great a mortality upon man and beast in many places of this nation, besides the decay of trade, and the great dearth which is amongst us, which, if the Lord be not so merciful as to send seasonable weather, may threaten a famine. These things seriously considered, is there not a cause to sanctify a fast, to call a solemn assembly, to gather the elders, and all the inhabitants of the land into the house of the Lord our God, to cry mightily unto the Lord: For which purpose, as also to implore a blessing from God upon the counsels and proceedings of this present parliament; his Highness the Lord Protector and the parliament do appoint, That in all places within England, Scotland, and Ireland, and the dominions thereto belonging, the eighteenth day of May next be set apart and observed as a day of solemn fasting and humiliation in all churches, chapels, and congregations, within the same; and we do will and require all ministers and pastors of congregations to read or cause to be read this declaration in their several churches, chapels, and congregations on the Lord's day next before the said day of publick fasting, to the end the same may be the better taken notice of: And we do also hereby will and require all justices of the peace and other officers, to see that the said day be duly observed: And we do prohibit all fairs, markets, opening of shops, and other ordinary labours and employments, and all recreations upon the said day.

This declaration was thrice read in the House of Commons, and engrossed, and sent to the other House for their concurrence.

His late Highness's Letter to the Parliament of England, shewing his Willingness to submit to this present Government: Attested under his own Hand, and read in the House on Wednesday the 25th of May, 1659.

Richard Cromwell's protectorate was now ended, and he was in a lamentable condition, being persecuted on all hands for payment of debts, and particularly the expences of his father's superb funeral. The Wallingford-house party had made some sort of composition for him with the republicans, but both parties agreed in previously exacting his abdication of all political power.

"Mr Richard Cromwell, not removing from Whitehall, though he received a message to that end, Sir Henry Vane, Sir Arthur Haslerig, Mr Scot, and I, according to the command we had from parliament, attended him there, and received for answer, that he would do it with all convenient speed. But the parliament being impatient of his delays, sent the Chief Justice, St John, and another person, to require him to give them a positive answer, which he did to their satisfaction, declaring his acquiescence in the providence of God, and his resolution not only to submit to the authority of the parliament, but also to use the best of his endeavours to persuade all those in whom he had any interest to do so likewise. The parliament having received his answer, ordered 20,000*l.* to be presently payed him to enable him to remove, and passed a resolution to pay those debts which it was said he had contracted on the public account."—Ludlow, *ut supra*, II. 198.

From Henry Cromwell, the protector's second son, more resolution was expected than from Richard; but he too, like his brother, submitted at once to the fall of his family. His letter of abdication is here subjoined.

H. Cromwell's Resignation of the Government of Ireland to the Parliament.

Mr Speaker,

I am so unwilling to interrupt the peace of these nations, that I think it my duty to prevent even those feares and jealousies which may give any occasion thereof; and, in order thereunto, to give you an accompt of the affaires in Ireland, and more especially of myselfe in relation to them, and other the late transactions.

It hath beene my unhappiness of late to receive intelligence only from common fame, and very private hands, and to be forced rather to guesse what I had to do upon all emergencies, than to bee instructed with the cleere commands of my superiours. By reason whereof, when I first heard the generall rumour of the last parliament's dissolution, and of a likelyhood of discontinuing the government under which it was called, I having noe light into the intrinsick causes of that action, and knowing, in generall, how busy the common enemy was in all the three nations; and withall, having the care of securing a more dangerous, numerous, and exasperated people, the Irish natives and papists, I did forthwith, to answer all the several ends of my trust, publish a declaration requiring all officers civill and military to attend their respective commands, and not to harken to any designe of inovation, how speciously soever the same might bee presented unto them. Soone after, I received a letter from the committee of safety, recommending the peace and security of Ireland in a more speciall manner to my care, which I answered with a reall promise of complying with their advice. I did, withall, communicate that letter to very many officers of the army, promising likewise to transmitt the result of their observations upon it; and accordingly I did send over, by three worthy persons of this nation, a particular of such things as the granting whereof (as is conceived)

would much settle the minds of people and army heere, whose case and concernments are very different from those of England and Scotland. All this while I expected directions from his highness (by whose authority I was placed heere) still having an eye to the common peace, by preventing all making of partyes or divisions either among the people or army; but hearing nothing expressly from him, and yet, having credible notice of his acquiescing in what Providence had brought forth as to the future government of these nations, I now thinke itt tyme (least a longer suspence should begett prejudiciall apprehensions in the mindes of any) to give you this accompt, viz. that I acquiesce in the present way of government, although I cannot promise so much affection to the late changes as others very honestly may. For my owne part, I can say, that I believe God was present in many of your administrations before you were last interrupted, and may bee soe againe; to which end I hope that those worthy persons who have lately acknowledged such their interrupting you in the year 1653, to have been their fault, will by that sence of their impatience bee henceforth engaged to doe so no more, but bee the instruments of your defence whilst you quietly search out the ways of our peace; which stability and freedome when the Lord shall restore unto you, will much subdue the hearts of all peaceably minded persons to your authority.

The fower yeares experience I have had of your army heere (even under those tryalls which have provoked others) gives mee just ground to assure you of their concurrence with their brethren in England, in the way of obeying and defending rather than of directing or awing you.

I say, for my owne part, I had an honourable opinion of the government you are now returned unto before itt's discontinuance; and yet I must not deny but that the free submission which many worthy, wise, and consciencious persons yielded to the late government under a single person (by severall wayes, as well reall as verball) satisfied mee also in that forme. And whereas my father (whom, I hope, you yett looke upon as noe inconsiderable instrument of these nations freedome and happiness,) and since him my brother, were constituted chiefe in those administrations, and that the returning to another forme hath been looked upon as an indignity to those my neerest relations, I cannot but acknowledge my own weakness as to the sudden digesting thereof, and my owne unfitness to serve you in the carrying on your further superstructures upon that basis. And, as I cannot promote any thing which inferres the diminution of my late father's honour and meritt, soe I thanke the Lord, for that he hath kept mee safe in the great temptation wherewith I have been assaulted, to withdraw my affection from that cause wherein hee lived and dyed.

I have a tenderness which (as I conceive, depending rather upon the worthines of governours than formes of government) renders me content to wait upon Providence, in the expectation of that mercy, being ready to yeeld up my charge to any whom ye shall send to receive itt; and beseeching the Lord to bee your mighty counsellor and prence of peace, I remaine

Your humble servant,

Dublin, 15 June, 1659. H. CROMWELL.

THURLOE'S *State Papers, by Thomas Birch, Lond.* 1742, *fol. vol. VII. p.* 683.

I HAVE perused the resolve and declaration which you were pleased to deliver to me the other night; and for your information touching what is mentioned in the said resolve, I have caused a true state of my debts to be transcribed and annexed to this paper, which will shew what they are, and how they were contracted.

As to that part of the resolve, whereby the committee are to inform themselves how far I do acquiesce in the government of this commonwealth, as it is declared by this parliament, I trust my past carriage, hitherto, hath manifested my acquiescence in the will and disposition of God, and that I love and value the commonwealth much above my own concernments; and I desire, that by this a measure of my future deportment may be taken, which, through the assistance of God, shall be such as shall bear the same witness, having, I hope, in some degree, learned rather to reverence and submit to the hand of God, than to be unquiet under it. And (as to the late providences that have fallen out among us) however in respect of the particular engagements that lay upon me, I could not be active in making a change in the government of these nations; yet, through the goodness of God, I can freely acquiesce in its being made, and do hold myself obliged, as (with other men) I expect protection from the

present government, so to demean myself with all peaceableness under it, and to procure to the uttermost of my power, that all in whom I have any interest do the same.

RICHARD CROMWELL.

Twenty-seven Queries relating to the general Good of the Three Nations, which will neither please mad Men, nor displease rational Men. 1659.

These queries seem the labour of some republican, who, on the re-establishment of the Rump Parliament, was willing to use his efforts to continue its authority, by pointing out the advantages to be derived from peace and unanimity, advantages usually insisted upon most strenuously by those who, being in power, find it their interest to promote quiet, and proportionally vilipended by such statesmen as, being removed from authority and situation, hope for every thing in general disturbance. The tract is, however, a moderate one, and reasonable enough, unless in the expectation that an accommodation of the disputes about church government might rationally be hoped for from a general congress of the polemics on all sides.

I.

WHETHER, where people are under the afflicting scourge of God's hand, they ought not to be patient, and not to break forth into froward courses to pull down greater judgments that hang over their heads?

II.

Whether it be a probable way for a people, in such a condition, to procure their happiness by reviling and reproaching those that are the chief rulers over them?

III.

Whether it be for the honour of a people, by idle and impertinent pamphlets, to make a government (though yet unsettled) ridiculous to all other nations?

IV.

Whether it doth not highly concern those that are now in power to proclaim a publick fast through the three nations, that all may call upon God by fasting and prayer, that he will be graciously pleased to turn away his judgments from us: and such as are able ought freely to give alms to the poor, that are brought to great necessity by these unfortunate distractions?

V.

Whether those men, who are generally taken notice of to have been unquiet under every government, be likely to do any great good now by inveighing against the present power; and whether they might not do more good (if their zeal be so

great as they pretend) to be quiet, and to pray unto God in private to mend what is amiss, when they have found, by experience, that they run still into more inconveniences?

VI.

Whether this be a time of all others for men to strive who shall be greatest?

VII.

Whether Dr Vauz his answer to King James was rational, that the way to cure a mad man was to put him quite out of his wits?

VIII.

Whether they that caused the great engine, set up in Henry the Sevenths Chappel, to be taken down, did not do better, and more to the liking of all the good people of the land, than they that caused it to be set up?

IX.

Whether those that are in present power are not bound in conscience to search out narrowly the causes of all our distractions, especially considering the strict account they must one day make, and to establish what they know to be right, though they should thereby seem to confess some great over-sights of their own, and it should prove never so contrary to their own interest?

X.

Whether, when we are in a sad condition, and desire to come forth of it, those that are in power, making such fair proposals that are likely to free us of our troubles, ought not to be believed and trusted, rather than any private men who would perswade us that our governours do not intend really what they do so fairly pretend?

XI.

Whether the old L. Protector did not do better to hold up a government by main force, as the nation then stood, than to let all run to ruin, and to suffer the people to imbrew their hands in each others blood, which doubtless they would have done had he let his sword fall?

XII.

Whether we ought not to let him stand or fall to his own master, and not to revile him being dead, whatsoever exorbitances were committed in his life time, since it must be confessed that he was God's rod for the sins of the nation?

XIII.

Whether, if he had not over-ruled the people by a strong hand, they would not have proved as wanton under his government as they were under his predecessors, and, upon the first opportunity, dealt as cruelly with him as they did with the king?

XIV.

Whether the people can forbear laughing at themselves to see their own inconstancy, that nothing will please them, but what they cry up to-day, they cry down to-morrow?

XV.

Whether most men do not think it strange that the late protector, being so friendly settled, and approved of generally by so many addresses made unto him, being so much

commended for his moderate government, should so suddenly be laid aside; yet, since he in his prudence thinks fit to subscribe, wherefore all other men should not acquiesce as well as he, and embrace the protection they are now under?

XVI.

Whether the souldiery would not rather receive their arrears, and return all to their several callings, than desire, to their own inconvenience, to be a continual burden to the common-wealth?

XVII.

Whether we are not all bound to pray to God to direct the great council of the nations; and all that are able to set their helping hand to raise moneys, if there be want thereof to pay off the souldiery, that no more be kept in pay than needs must be?

XVIII.

Whether this be not the next way to take off excise, and all extraordinary taxes, from the people?

XIX.

Whether it be not best to make a general peace with Spain, and other princes, which is in part held forth to us by the present power, and to leave them to their best understanding to effect it, than to interrupt all their proceedings with strange surmises and scandalous libels, to feed the peoples discontented humours with a desire to raise a new war, of which no man knows how bad the events may be?

XX.

Whether those that have had the chance, by a wonderful providence, to raise themselves great estates during this unnatural war, be not bound in conscience to contribute largely toward this happy work, and to consider those whose estates they are possessed of, and relieve them as they would look for mercy at Gods hands another day, since they also are sinners, though God hath made them the instruments to punish other men?

XXI.

Whether all moderate ways are not to be used to compose (if possible) the vast differences that are risen between men of different judgments: One says he is of Paul, and another of Apollo, a third of Cephas; and whether men may be so full of animosity one against another, being all Christians, our blessed Saviour having made it the true character and liberty of his disciples to be in mutual love and amity?

XXII.

Whether all this jangling in the church of Christ do not favour of pride and malice, and of the unquietness of spirit; and be not the ready way to make our breaches wider than they are?

XXIII.

Whether, if the saints must rule the earth, and outward felicity be an infallible mark of the true church, the saints are meant by the children of this world, who, our Saviour saith, are wiser in their generation than the children of light?

XXIV.

Whether this parliament, by doing righteous things, may not regain the honour due

to parliaments, which was almost lost by their interruption; and confirm the peoples former opinion concerning the justice of parliaments?

XXV.

Whether, to compose all differences in religion, our governours should not do exceeding well speedily to appoint a conference of the chief men of all parties, of what judgment soever, that so a uniformity in discipline as well as in doctrine may be established, and the church may be setled as near as may be to the purest copy within the first 600 years after Christ?

XXVI.

Whether we are not all bound as much as lyes in us, and, if it be possible, to follow peace with all men, and to remember what our Saviour hath certainly resolved us, That a house, or nation, divided against it self cannot stand?

XXVII.

Whether any man be yet so blind as not to see what distractions may arise from over-heady zeal without knowledge; and whether all do not now find that we are run into a confusion, and therefore were it not better for unlearned men to give way to men of better judgments, that so both in church and state all things may be done decently and in order, as the apostle St Paul hath taught us?

Concordia parvæ res crescunt, discordia magnæ dilabuntur.

England's Confusion; or, a true and impartial Relation of the late Traverses of State in England, with the Counsels leading thereto; together with a Description of the present Power ruling there by the Name of a Parliament, under the Mask of The Good Old Cause. Written by one of the few Englishmen that are left in England.

JUDG. xix. 30. And it was so, that all that saw it said, There was no such deed done nor seen from the day that the children of Israel came up out of the land of Egypt unto this day: Consider of it, take advice, and speak your mind.

ROM. ii. 1. &c. Therefore thou art inexcusable, O man! whosoever thou art that judgest; for wherein thou judgest another, thou condemnest thy self, for thou that judgest dost the same thing.

2 TIM. iii. 1, 2, 3, 4, 5. This know also, that in the last days perilous times shall come. For men shall be lovers of their own selves, covetous boasters, proud, blasphemers, disobedient to parents, unthankful, unholy: Without natural affection, truce breakers, false accusers, incontinent, fierce despisers of those that are good: Traitors, heady, high-minded, lovers of pleasure more than lovers of God: Having a form of godliness, but denying the power thereof; from such turn away.

GAL. ii. 18. If I build again the things which I destroyed, I make myself a transgressor.

The second Impression, with new Additions.

Printed in the Year 1659.

The various opinions which were entertained by those most anxious for a continuation of the republic, under one shape or another, were so numerous as to give infinite advantage to the

royalist party, which, if inferior in numbers, as it unquestionably was in political strength, was yet united in itself, and fixed upon one single object, namely, the restoration of the old constitution, and the royal family of Stuart. Of the divided state of the republican and military factions, Ludlow gives us the following animated picture:—

"At this time the opinions of men were much divided concerning a form of government to be established among us. The great officers of the army, as I said before, were for a select standing senate, to be joined to the representative of the people. Others laboured to have the supreme authority to consist of an assembly chosen by the people, and a council of state, chosen by that assembly, to be vested with the executive power, and accountable to that which should next succeed; at which time the power of the said council should determine. Some were desirous to have a representative of the people constantly sitting, but changed by a perpetual rotation. Others proposed, that there might be joined to the popular assembly a select number of men in the nature of the Lacedæmonian Ephori, who should have a negative in things wherein the government should be concerned; such as the exclusion of a single person, touching liberty of conscience, alteration of the constitution, and other things of the last importance to the state. Some were of opinion, that it would be most conducing to the public happiness if there might be two councils chosen by the people; the one to consist of about 300, and to have the power only on debating and proposing laws; the other to be in number about 1000, and to have the power finally to resolve and determine: every year a third part of each council to go out, and others to be chosen in their places."—LUDLOW, *ut supra*, II. 206.

It was impossible for the public to draw any other conclusion from the difference among their rulers, than that they did not know their own mind, and consequently that their councils could scarce be very useful to the common weal. The object of the following, written by some concealed royalist, is to lead the minds of his readers to this conclusion.

"*The Lord Chancellor Hyde to Mr Hancock, (Broderick.)*

"Sir,

"* * * Methinks it is a very fit conjuncture for you to get some sharp pamphlets to be published and dispersed, to inform the people of their folly and madness in affecting to be governed as a commonwealth, by convincing them how far the people are from enjoying that liberty under that government, which the people of England have always done under their kings; of the tyranny to which republics are subject, (I mean with reference to the people,) by the instances of Venice, Genoa, and the other little republics in Italy; and of the vast taxes and impositions always exercised in commonwealths by the instances of Holland and the Hanse towns, where every tradesman, that's worth five hundred pounds, pays more yearly to the state than a man of five hundred pounds a year did ever to the king; that that kind of government never was any where, and much less can be in England, supported without a standing army, the mischief whereof they already feel, and without the burthen of that they must always promise themselves to be in perpetual war with some of their neighbours, as long as there is any of the royal line alive. I pray think of this, and in it do right to the worthy persons who are the chief cherishers and supporters of that design, by giving the right characters of them to the people, and making them as odious and ridiculous as they ought to be." * * * *

February, 1659-60.

It is remarkable, that many of the passages in this pamphlet have been transferred *verbatim* to Heath's Chronicle of the Civil Wars.

It is not unknown to any that have not been wilfully blind, with what a high hand of arbitrary power the late protector, Oliver Cromwell, swayed the scepter of these three nations for the space of five years, and laid the best foundations his short and troublesome reign would give leave to have continued his posterity in the same unlimited dominion, declaring, when death summoned him to account, (if we may credit the greatest of our present rulers,) his eldest son Richard, his successor in his usurped dominion, and leaving his son Henry Lord-Lieutenant, or Viceroy of Ireland, and his daughter Fleetwood married to the commander-in-chief, under him, of the army,

(which they had very far new modelled for their turn,) and the most probable competitor for succession to the protectorship. Now, that subtle Lambert was upon discovery, his active undermining spirit removed from all places of trust and opportunities of doing mischief.

In this posture of affairs was England, and the dominions thereof, when the lion was forced to quit his prey, of whom I will say no more, because he is gone to his own place; and where I can speak no good of the dead, I hold it almost a duty to say no evil.

The protector, being interred among the kings and queens at Westminster (at a vaster charge than had been used upon like occasions in the richest times,) death giving him that honour which he had aspired to, but durst not embrace in his lifetime,[1] his son Richard, an honest private gentleman, well beloved in Hampshire, the county where he lived, ascended the throne by the invitation and encouragement of Fleetwood, Desborough, Sydenham, the two Jones's, Thurloe, and others the relations and confidents of his father, and, by the contrivance of the court, received congratulations (prepared at Whitehall) from most of the counties, cities, and chief towns of England, and from the armies of England, Scotland, and Ireland, with engagements to live and die with him; addresses from the independent churches by Doctor Goodwin and Nye, their metropolitans, and was indeed worshiped by many as the rising sun in our horizon.

This introduction being made to the transferring the government of these nations from the Stewarts to the Cromwells, it was conceived, by those who had proceeded thus far, that a general convention, or parliament, wisely chosen by influences from court, would easily swallow what had been so well prepared to their hands; and accordingly it was resolved by the junto before-mentioned, that a parliament should be called to meet the twenty-seventh of January last, and (by pretence of restoring the people to their ancient way of elections, but really) that the court might command the more votes, the boroughs had writs also sent to them, and the elections were all made in the antient way, only thirty members were called by writs from Scotland, and as many from Ireland, according to the late combination of the three nations into one commonwealth.

This new kind of parliament being met at the time and place appointed, God had so well ordered the elections, notwithstanding the practices of men, that their English spirit quickly appeared both against impositions from court and army: and though their counsels were at first interrupted with an act of recognition of the protector, prepared and brought in by the court, which took up the first fortnight of their time upon

[1] Ludlow gives the following account of this singular ceremony:—"One of the first acts of the new government was to order the funeral of the late usurper: and the council having resolved that it should be very magnificent, the care of it was referred to a committee of them, who, sending for Mr Kinnersley, master of the wardrobe, desired him to find out some precedent by which they might govern themselves in this important affair. After examination of his books and papers, Mr Kinnersley, who was suspected to be inclined to popery, recommended to them the solemnities used upon the like occasion for Philip II. King of Spain, who had been represented to be in purgatory for two months. In the like manner was the body of this greater reformer laid in Somerset-House. The apartment was hung with black, the daylight was excluded, and no other but that of wax tapers to be seen. This scene of purgatory continued till the 1st of November, which, being the day preceding that commonly called All Souls, he was removed into the great hall of the said house, and represented *in effigie*, standing on a bed of crimson velvet, a sceptre in his hand, and a crown on his head. That part of the hall wherein the bed stood was railed in; and the rails and ground within them covered with crimson velvet. Four or five hundred candles, in flat shining candlesticks, were so placed round near the roof of the hall, that the light they gave seemed like the rays of the sun; by all which he was represented to be now in a state of glory. This folly and profusion so far provoked the people, that they threw dirt in the night on his escutcheon, that was placed over the great gate of Somerset-House. I purposely omit the rest of the pageantry, the great number of persons that attended the body, the procession to Westminster, the vast expence in mourning, the state and magnificence of the monument erected for him, with many other things that I care not to remember."—Ludlow's *Memoirs*, II. 156.

the very point of recognition, yet they were at length extricated from that difficulty, by the expedient of an honest gentleman, in passing these votes on Monday, the 14th of February, 1658, without any division or negative.

Resolved,

That it be part of this bill to *recognise*[1] and declare his Highness Richard, Lord Protector and chief Magistrate of the Commonwealth of England, Scotland, and Ireland, and the dominions and territories thereunto belonging.

Resolved,

That before this bill be committed, the house do declare such additional clauses to be part of this bill as may bound the power of the chief magistrate, and fully secure the rights and privileges of parliament, and the liberties and rights of the people: And that neither this, nor any other previous vote that is, or shall be, passed in order to this bill, shall be of force or binding to the people, until the whole bill be passed.

Their next work was to appoint a committee for inspection into the accounts and revenue of the commonwealth, which had been lamentably squandered and wasted ever since 1648; (when the major part of the parliament, called in 17 Caroli, was forcibly imprisoned and secluded by the army and their fellow-members,) and twelve members, versed in matters of account, whereof Mr Scowen was in the chair, were selected for this work, and fully impowered for the work they had in hand, in order to the retrenching and lessening the charge of the commonwealth.

On Saturday, the nineteenth of February, they proceeded in the act of recognition, and resolved,

That it shall be a part of this bill to declare the parliament to consist of two houses.

And had afterwards several days debate by order, concerning the bonding of the chief magistrate's power, and the bonds and powers of another house in relation to the former votes, but could come to no resolution thereupon, the court party sticking hard for the powers given them by the petition and advice, and the honest patriots of the house (whose weighty reasons then convinced the commonwealth party now ruling to go along with them) denying it to be a law, being obtained by force and exclusion of above a hundred members in the year 1656, by which force also the purse was taken from the commons, by settling a revenue of thirteen hundred thousand pounds a year in perpetuity of the command of the single person; and the ruling members of the other house, being most of them officers of the army and courtiers, which, being allowed for law, the people would have been absolute slaves to their power and purse, stolen from the commons, as aforesaid.

Whilst the temper of the house was thus tried, and they appeared sufficiently to be Englishmen, divers of the members of Scotland and Ireland joining with them in the same resolutions, by the joint advice of the court and army party, the question of transacting with the persons sitting in the other house, as an house of parliament, was set before them, upon pretended grounds of law and necessity, and by arguments of force, and interposition from the army, and of impossibility to proceed in any thing without the said other house. This attempt was as stoutly opposed for fourteen days by the moderate honest patriots of the house as the former; the undoubted right of the ancient peers asserted, and all the said grounds and arguments confuted, except that of force, which was not to take place with any thing like a free parliament of Englishmen. But in the close of the fourteen days debate, wherein much of the

[1] A great dispute took place whether the house should *recognize*, or merely *agnize*, the title of the protector. The house was divided upon it, and although the former vocable was finally adopted, yet the opposition, as we learn from Ludlow, became methodized, and acquired the art of "hanging upon the wheels of the executive government," so as effectually to check all rapid movement.

honesty, ingenuity, and courage of the English nation did appear, (seeing all affairs at a stand till something were resolved in this point,) they came, in a very full house, to this well-qualified resolution:

Resolved,

That this house will transact with the persons now sitting in the other house, as an house of parliament, during this present parliament; and that it is not hereby intended to exclude such peers as have been faithful to the parliament, from their privilege of being duly summoned to be members of that house.

The house of commons (between the Protector, the other house, and the general council of officers now summoned to meet at Wallingford-house)[1] may well be conceived at this time to have had a wolf by the ears, and (having shewed themselves Englishmen and not slaves) had reason to entertain wary counsels, having some of their own members undermining them without doors, and foreseeing a dissolution, though not knowing whether they should die a violent or natural death, or have a mixed kind of decease, as it fell out afterwards; and therefore they resolved not to own them in the other house as lords, but called them "the persons now sitting in the other house as a house of parliament;" neither would they treat and confer with them in the usual way, as with the house of peers, and therefore found out the new word of *transacting*. And not intending to have to do with them but for a trial, they limited the time to be during this present parliament, which they foresaw would not be long; and, to muzzle the new inconsiderable upstarts sufficiently (if they should take too much upon them,) they asserted the privilege of the ancient peers as a good reserve, if the parliament should, by the Protector and army, be suffered, upon second thoughts, to sit longer than was at first intended. And resolved also, that they would receive no message from those persons sitting in the other house, but by some of their own number.

The house of commons by this time had also, by a saving in a vote concerning the fleet, asserted their interest in the militia, and had under consideration an act for taking away all laws, statutes, and ordinances, concerning the excise and new imposts, and concerning customs, tonnage, and poundage, after three years; and had vindicated the people's liberties, by setting Major-general Overton and Mr Portman, and divers others (illegally committed by the late Protector,) at liberty without paying fees, and declaring their imprisonments and detention illegal and unjust; and had their new Lord Gaoler[2] Barkstead and others at their bar, under question for the same; and had also a high resentment of the illegal sending freeborn Englishmen against their wills to the Barbadoes and other foreign plantations, and to the isles of Guernsey and Jersey, out of the reach of the writ of Habeas Corpus, and had appointed a strict bill to be prepared for remedy thereof. And had examined and discovered many other grievances brought upon the people by the officers and farmers of excise and others, and by major-generals, amongst which Butler was, for his insolent actings and high affronts to the law and courts of justice, put out of the commission of the peace, and a committee appointed to draw up an impeachment against him. The committee also for inspection, before-mentioned, had brought in and reported to the house the state of the accounts and public, and of the martial and civil lists in the three nations, by which it did appear, that the yearly incomes of England, Scotland, and Ireland, came to eighteen hundred sixty-eight thousand seven hundred and seventeen pounds, and the yearly issues to two millions two hundred and one thousand five hundred and forty pounds; so

[1] The Wallingford-house, or army party, was headed by Lambert, whose intention it doubtless was to play the same game against Richard Cromwell which had been successfully managed against the Long Parliament by Oliver. He therefore stimulated the discontents which daily broke out in the army.

[2] So called, because he was lord-lieutenant of the Tower, and had charge of Cromwell's state prisoners.

that three hundred thirty-two thousand eight hundred and twenty-three pounds of debt incurred yearly by the ill management of double the revenue that ever king of England enjoyed; and, to maintain the unjust conquest of Scotland, cost us yearly one hundred sixty-three thousand six hundred and nineteen pounds more than the revenue it yields.

Many other particulars were under their consideration, as to the religion and civil rights of the people, too long now to be mentioned; but, in short, to give them their due, they did some good whilst they sate, both to the public and particulars, and intended much more, and did no hurt, gave no offices nor gratuities to themselves out of the public treasure, nor granted any money from the people, which is more than can be said of any parliament in our memory.

Proceeding thus successfully and hopefully, to the general satisfaction of the people in the three nations, who chose them, the Protector and chief officers of the army, who were jealous of one another before, and competitors for government, grew now jealous of the house of commons also, who, being the representatives of the people, were become also their minions and favourites.[1] It was therefore now thought seasonable to contend among themselves for the power, before the people should recover it from them both; in order to which, the general council of officers kept their constant meetings at Wallingford-house, and the Protector, with his party, countermined them at Whitehall. The result of the officers assembling was a representation to the Protector, which was published by the officers own order, the seventh of April, and the day after a copy thereof sent inclosed by the Protector, in a letter to the Speaker of the house.[2]

This representation was like lightning before thunder, both to the Protector and the house; for though it had some seeming fair professions intermixed, it is written in such a canting equivocating language, whereof the sword was like to be interpreter, that the sting was easily visible through the honey, and their former actions and suitable continuing honesty better credited than their words.

Hereupon the Protector begins too late to think of securing himself from being surprised with their compliments, and stands upon his guard; and the commons house, as became Englishmen, wisely and courageously resolved to let the officers know that they took them still to be their servants, though they had for too many years ill deserved their wages, rebelling and usurping the government at their pleasure: And intending to try what they meant by the "Good Old Cause," which, as they seemed to represent it, smelt of gunpowder and ball, and whether the repentance held forth in their said representation were real or military, passed these votes on Monday, April 18:

Resolved,

That, during the sitting of the parliament, there shall be no general council or meeting

[1] Whitelock informs us that Richard was strongly advised to dissolve the parliament by most of his counsellors, but that he himself wished they should be permitted to sit, at least until they had voted some supplies, with which the Protector might engage the soldiery in his interest.

[2] They complained "of the great arrears of pay that were due to the army, by which they were in great streights; that they who had borne the brunt of the war, and undergone all the difficulties and dangers of it, were now undervalued, derided, and laid aside; that the Good Old Cause was ill spoken of and traduced by malignants and disaffected persons, who grew every day more insolent, and their numbers increased by the resort out of Flanders and other places, and that they had several secret meetings in the city of London; that the names of all those who had sate upon the late king as his judges were lately printed and scattered abroad, as if they were designed to destruction; and that many suits were commenced at common law against honest men for what they had transacted in the war as souldiers; and that those famous acts which had been performed in the Long Parliament, and by the late Protector, were censured, railed at, and vilified. By all which, they said, it was very manifest that the Good Old Cause had declined, which they were resolved to assert; and therefore they besought his Highness to represent those their complaints to the parliament, and to require proper and speedy remedies." —CLARENDON, III. 515.

of the officers of the army, without direction, leave, and authority of his Highness the Lord Protector and both houses of parliament.

Resolved,

That no person shall have or continue any command or trust in any of the armies or navies of England, Scotland, or Ireland, or any the dominions and territories thereto belonging, who shall refuse to subscribe, that he will not disturb or interrupt the free meetings in parliament of any of the members of either house of parliament, or their freedom in their debates and councils.

And the same time, to shew their care of the army, and to prevent jealousies, they passed the following votes:

Resolved,

That the house do presently take into consideration the ways and means for satisfaction of the arrears of the armies, and providing present pay for them.

Resolved,

That Serjeant Maynard, the attorney-general, and solicitor-general, do forthwith prepare an act of indemnity for all such as have acted under the parliament and commonwealth.

Whilst the house spent the rest of their time in considering how to provide money, without laying new burdens on the people, great contests grew between the Protector and the opposite officers of the army, both sides keeping guards night and day against one another, the Protector having, in pursuance of the votes of the house, forbidden the meetings of the officers.

In this divided posture affairs continued till Friday the 22d of April, on which morning early, Fleetwood, the Protector's brother, Desborough his uncle, and the rest of the mutinous officers, carrying the greater part of the army after them, and the Protector's party flinching, the conquest was made without one drop of blood (which was strange in so ancient, hereditary, just, and undoubted a title,) and the Protector forced to consent to a commission and proclamation ready prepared, giving Desborough and others power to dissolve the parliament, contrary to the best advice and his own interest and promise. And accordingly the same day, the black rod was sent twice to the house of commons (from Fiennes, speaker of the other house,) for them to come hither, but they admitted him not in, and much scorned the motion, having ever looked upon that mushroom house as the lower house, and their own creature, the language being, to send down to the other house, when they sent the declaration for a fast, for a trial of transacting with them: And therefore, understanding there were guards of horse and foot in the palace-yard, after some motions made by Mr Knightly, Sir Arthur Haselrig, and others, wherein Sir Arthur exceeded, That the house should first declare it treason for any persons whatsoever to put force upon any members of the house; and next, that all votes, acts, and resolutions, passed by any members of parliament, when the rest were detained from, or taken out of the house by force, should be null and void, and other motions, becoming Englishmen, to that end, judging themselves under a force; and finding they were very unanimous, though near four hundred in the house, in the things proposed, they resolved no question, but adjourned till Monday morning, the twenty-fifth of April, and attended the Speaker, in order, through Westminster-hall, to his coach, in the face of the soldiery.

Now the court (according to the guise of the world in like accidents) shrunk out of Whitehall into Wallingford-house; and Fleetwood, Desborough, and the rest of the officers, great and small, took the government into their own hands, the house of commons being shut up, and entrance denied to the members, when they came to Monday, (even to Sir Henry Vane and Sir Arthur Haselrig themselves,) according to adjournment, the court of requests and all avenues being full of soldiers, who told the members that they must sit no more.

After the officers had new-modelled themselves, cashiering Whaley, Ingoldsby, Goffe, and divers others of the Protector's party, and restoring Lambert, Haselrig, Okey, and others displaced by Protector Oliver, and played with the government for a few days, and grew weary of it, the inferior officers and the pamphlets (that now flew about daily without controul,) carrying things beyond the intention of the chief officers, who would have left the Protector a *Duke of Venice*, for his father's sake, who raised them, and their relation to him, which they had forgotten till now,[1] they sent to some of their old hackney drudges of the Long Parliament then in London, who they knew would do any thing, so they might be suffered to sit;[1] and on the fifth and sixth days of May had conference with them, the last of which was at their never-failing Speaker the Master of the Rolls's house in Chancery-lane, where both officers, viz., Lambert, who had already gotten his old place, and others with him, and members, viz., Sir Henry Vane, Sir Arthur Haselrig, Ludlow, John Jones, Mr Chaloner, Mr Scot, and others, to the number of twenty, solicited William Lenthal, Esq. to sit speaker again, but he objected scruples in judgment and conscience (which are not yet answered, nor never will:) Nevertheless, fifteen articles between the officers and some of the members (who, it seems, over confidently undertook for the rest) being first agreed on at some of their meetings, they resolved to meet in the house on Saturday the 7th of May; yet, that they might do it by surprise, they gave out that they would not sit till Tuesday the tenth of May: But the itch of ambition and lording it over the people, giving them no quiet, on Saturday the 7th of May early, they met in the painted chamber at Westminster, and, to make up their number, sent for the two chaste cock sparrows, the Lord Munson and Mr Henry Martin, out of prison, where they were in execution for debt, and honest Whitlock, and Lisle of the chancery-bench, and with this addition, being two and forty in number, the chancery mace for haste being carried before them.

William Lenthall, Esq. their tender-conscienced speaker, together with the said Lord Munson.

Henry Martin.

Mr Whitlock.

Mr Lisle.

Temperate Mr Chaloner.

Wise Alderman Atkin.

Trusty Alderman Pennington, who became executor *de son tort* (to 7000l. estate of Sir John Pennington, who trusted him) before his death.

Pedantic Thomas Scot, successor to Laud both at Lambeth-House and the new lordly council board.

Hastily-rich Cornelius Holland.

Single-hearted preaching Sir Henry Vane, now become old Sir Harry.[2]

Prideaux, attorney-general to all governments.

Smiling Sir James Harrington.

Levelling Ludlow.

Pembrochin Oldsworth,[3] that made the earl his master's wise speeches.

[1] The army, or rather Lambert and the council of officers, were rather indisposed towards this expedient, and it was proposed among them to levy money for paying their forces without any parliamentary authority. But, powerful as they were, this was held too desperate an expedient, and they conceived hopes of establishing their power under a more constitutional sanction, by recalling the Long Parliament, which had been dissolved by Cromwell.

[2] He was long called *young* Sir Harry, in order to distinguish him from his father.

[3] The steward of the celebrated Earl of Pembroke and Montgomery.

Vain-glorious hair-brained Haselrig, with repentance like the army's in his conscience, and the bishopric of Durham at his back.

Sir Thomas Middleton's man Jones.

Doting Purefoy, without purity or faith.

Colonel White, the Lord Fairfax's secretary, got before his master.

Religious Harry Nevill.

Mr Say, the famous lawyer.

Mr Blagrave, better known at Reading than here.

Colonel Bennet, Sir Henry Vane's little second at preaching.

Mr Brewster, a cypher to make up the number.

Sergeant Wilde, best known by the name of the Wild Sergeant.

John Goodwin, alias Herb John.

Mr Lechmore, the attorney general's second at all governments.

Augustin Skinner, a Kentish Christian.

Mr Downes, another cypher.

Mr Dove, a brewer of Salisbury, come to help in this new brewing

Mr John Lenthall, William Lenthall's own son.

Saloway, a smart prating apprentice newly set up for himself.

Mr John Corbet, such another lawyer as Miles, and of his own colour.

Mr Walton, that will never forget his son furnished blacks for the protector's funeral.

Gilbert Millington the church snuffers, who desires no better trade than scandalous ministers.

Mr Gould, newly married to get more, the commonwealth being poor.

Colonel Sydenham, Colonel Bingham, } a Dorsetshire couple, in at all governments, who had rather talk than fight, and yet will venture to do any thing, being backed with an army, against the naked people.

Colonel Ayre, whose name fills his head.

Mr Smith, a six-clerk, that wishes he could write and read.

Colonel Ingoldsby, that fought so well lately for the protector against Fleetwood: And

Fleetwood, that holy man, who so smoothly supplanted the protector, that he persuaded him three crowns were not worthy a drawn sword, stole on the sudden into the house, the invitation of the army for the sitting of the Long Parliament (as they call it) being first published in Westminster-Hall.

Upon notice of their sitting, there being double their number, members of the same parliament in town, and many of them in the hall, to prevent the mischiefs of a surreptitious packed parliament, they agreed among themselves in the Hall, (though they were doubtful that parliament was dissolved) that about a dozen or fourteen of them should immediately go to the house; and the persons that did so were these, viz.

Mr Ansley	Sir John Eveling	Mr Clive
Sir George Booth	Mr Gewen	Mr Hungerford
Mr Prynne	Mr Eveling	Mr Harley
Mr George Montague	Mr Knightley	Mr Peck.[1]

Who, though with much ado they got into the lobby, where they found (Mr James and Mr John Harbert) they were not suffered by the officers of the army to go into the

[1] These were members of the presbyterian party, excluded from sitting in the Long Parliament by the military operation of what was called Colonel Pride's Purge. But it was no part of the plan either of the Rump Parliament, or of the military council by whom they were reassembled, to admit these secluded members.

house, though they disputed their privilege of sitting (if the parliament were yet in being;) but reason, as well as the laws, must be silent among men of war; and therefore after they had fairly made their claim, and found the house under force, they retired, and resolved by letter to acquaint the speaker, and those gentlemen assembled with him, what usage they had received.

And accordingly, on Monday the 9th of May, they went to Westminster, where, understanding that there were no guards upon the house, Mr Ansley, Mr Prynne, and Mr Hungerford, went up to the house, and had free admittance, receiving the declaration of the 7th of May at the door, which was published this day; but Mr Ansley walking afterwards into the hall (the house not being ready to sit) to let the members know, that though they were repulsed by force on Saturday the house was open for honest men this day: at his return, Captain Lewson, of Goffe's regiment (as he confessed himself) and other officers, denied him entrance; he asking them, whether they were a committee to judge of members without doors? they said No; but they were commanded by their superior officers to let none in that had not sat till April, 1653. After some reasoning the case with them, the captain told Mr Ansley, that if he would give his parole to return without sitting, he might go in and speak with whom he pleased; so upon his parole passed to the captain, he was permitted to go in the second time, and soon after returned, telling the captain, as he came out, that he had kept his parole, and wished he and the soldiers would do the like. Mr Prynne continued still there, and resolved so to do, since he saw there was force again upon the house. The discourse Mr Prynne had within doors, and how he made them lose that morning, and adjourn by reason of his presence, without the speaker's taking the chair, you may expect from another pen; and how he attempted to sit again in the afternoon, but found there a troop of horse, and two companies of red coats, keepers of the liberties of England, and so bid them farewel: immediately after which, to prevent further interruption in their works of darkness from honest men, they barred the door against three parts of four of the members of the house, by the following vote:

Ordered,

That such persons, heretofore members of this parliament, as have not sate in this parliament since the year 1648, and have not subscribed the engagement in the roll of engagement of this house, shall not sit in this house till further order of the parliament.

Whereupon Sir George Booth, Mr Ansley, Mr Knightly, Mr Prynne, and the rest who had agreed on a letter to be sent to them, finding them in their old temper of trampling the privileges of parliament under foot, and judging without hearing, resolved to make no application to them.

But a copy of the letter coming to my hands, I judge it so worthy of the persons that subscribed it, and of the public view, that I have here inserted it.

It was directed,

To William Lenthall, Esq Speaker to the Members of the House of Commons now sitting at Westminster.

Sir,

We the persons subscribing, and others, members of the house, coming to Westminster-Hall on Saturday the seventh of this month, understood that the officers of the army had, by their declaration, dated the day before, invited the members of the parliament to return to the exercise and discharge of their trust, by virtue of an act of parliament passed 17 *Caroli*, wherein are these words: "And be it declared and enacted by the king our sovereign and lord, with the assent of the lords and commons in

this present parliament assembled, and by the authority of the same, that this present parliament now assembled, shall not be dissolved, unless it be by act of parliament to be passed for that purpose; nor shall be at any time or times, during the continuance thereof, prorogued or adjourned, unless it be by act of parliament, to be likewise passed for that purpose; and the house of peers shall not at any time or times, during this present parliament, be adjourned, unless it be by themselves, or their own order. And in like manner, that the house of commons shall not at any time or times, during this present parliament, be adjourned, unless it be by themselves or their own order. And that all and every thing or things whatsoever done or to be done for the adjournment, proroguing, or dissolving of this present parliament, contrary to this act, shall be utterly void and of none effect." And having casual notice immediately after, that yourself, together with the Lord Munson, Mr Henry Martin, Mr Chaloner, Mr Heningham, Sir Peter Wentworth, Alderman Atkins, Sir Arthur Haselrig, Mr Blagrave, Sir Henry Vane, Mr Purefoy, and others, to the number of forty, or thereabouts, were privily met together in the Painted Chamber, and seen to pass thence with a mace before you into the house, we did, not only out of sense of duty to our countries, if that parliament be not dissolved, but by the persuasion of multitudes of honest, faithful, and well-affected people, minding us of our trust, and that you wanted number in the house for the public service, resolve, That (in regard to the great croud) only about fourteen of us (there being many more in the hall) should presently go to the house; where, if they found free admittance, the rest might follow; but getting, with much difficulty, up the stairs, we found the outward door shut, and strictly kept; yet by degrees we got into the lobby, where we found the inner door of the house guarded by Lieutenant-Colonel Allen, and other unknown persons, officers, as it was said, of the army; who, though we pressed hard to get into the house, and urged their incompatibility to judge of the members without doors, which, by the privilege of parliament, was proper only for the house, and how they were all obliged to preserve the freedom, rights, and liberties of parliament, the former interruption and forcing whereof they had seemingly repented; and by your present sitting, by virtue of the said act of 17 *Car.* have published to the world the injustice of their late dispersing us; yet by no earnestness nor arguments could we prevail, but were forcibly hindered by them from going into the house; and when some of us acquainted Major-General Lambert, whom we met in the lobby as we returned, of our usage by the officers, though he gave us civil words, yet the force was not removed; whereupon we withdrew ourselves, resolving to give you this account thereof, that you may know, that though to yourselves you may seem to sit free, there is the same force, as we conceive, continued at your doors, which excluded, interrupted, and forced the major part of the house in 1648.

And now having laid before you the matter of fact, and not being conscious to ourselves of having done any thing in breach of our trust, or which may merit an exclusion from public councils, and duly weighing the sad condition of these three nations, and that in the multitude of counsellors there is safety, and that of the said house there are yet living at least three hundred members, besides those that sat that day, not being admitted to discharge our trust, and to give our faithful counsel for the good of these distracted and divided nations in the house, and to assert and vindicate our innocence and faithful adhering to the Good Old Cause, as it was held forth by the parliament's votes, declarations, and oaths, till we were forcibly excluded: we have thought it a duty incumbent on us for ourselves, and the respective counties, places, and all the people for which we serve in this way, to claim our own and the people's right of having their representatives freed from force, and admitted to the house, unless it be legally dissolved, and unless in a parliamentry way (by a full and free house, and not by any without doors) any thing can be charged against them to disable them, which we are ready, as members in our places, to answer, and quit ourselves of. And having no more

at present to say, but to desire that this our claim may be communicated to the house, we remain,

Your loving friends.

Westminster May 9, 1659.

Thus you see (to the grief of all that fear God) the same pretended parliament as was sitting in 1653, (till the Protector Oliver, by the best act of his life, pulled them out of the house) sitting again upon a declaration of the army (whose slaves they are) to do what they please, as time will discover: And that you may see they can trust few but themselves, and are not changed (for all their feigned repentance) they are already returned to the Good Old Cause of preferring one another and their friends to good offices and commands, and counsellors places, as appears by their vote of the 9th of May, viz.

The parliament doth declare, That all such as shall be employed in any place of trust or power in the commonwealth, be able for the discharge of such trust, and that they be persons fearing God, and that have given testimony to all the people of God, and of their faithfulness to this commonwealth, according to the declaration of parliament of the 7th of May, 1659.

And their proceedings thereupon, whereby they have chosen of their own members, for a council of state, twenty-one, viz.

Sir Arthur Haslerig	Fleetwood
Sir Henry Vane	Sir James Harrington
Ludlow	Col. Walton
Jo. Jones	Nevill
Sydenham	Chaloner
Scot	Downes
Saloway	Whitlock.

Whose several characters you have before.

Hab. Morley, squib-maker of the county of Sussex.

Sidney, who hath nothing of Sir Philip but the name.

Col. Thompson, as wooden a head as leg.

Col. Dixon, better known in Kent than trusted.

Mr Reynolds, half bishop of Winchester, and whole solicitor to the infant commonwealth.

Oliver St Johns, late sollicitor to the king, now sollicitor to the commonwealth, to be chief justice again; but they hold him to be *sanctus nomine non re,* and too great a patron of the law.

Haselrig remembers his and Collingwood's case.

Mr Wallop, a silent Hampshire gentleman, much in debt; fit indeed to be counsellor, if he could advise the commonwealth how to get out of debt.

Of persons without the house ten, viz.

Bradshaw, president at the formal murder of the king.

Lambert, a Yorkshire gentleman, not born to Wimbleton-House, but too crafty for them all, now old Oliver is gone.

Desborough, a country clown, without fear or wit.

Lord Fairfax, an allay for Lambert's brittle mettle.

Berry, the worst of the major-generals, except Butler.

Sir Anthony Ashley Cooper, a gentleman too wise and honest to sit in such company.

Sir Horatio Townsend, a gentleman of too good an estate to be hazarded with such a crew.

Sir Robert Honewood, Sir H. Vane's brother-in-law.

Sir Archibald Johnson, never advanced before the Marquis of Argyll till he came for England.

Josiah Barners, fool of the play.

Their next work must be to vote money answerable to the dignities bestowed on themselves; they discontinued the term (to the great damage and discontent of the people) because many suits were depending against Vane and Haselrig; and if they rule on as well as they did when Oliver turned them out of doors with the brand of knaves, whoremasters, and drunkards, to the general rejoicing of the people, no doubt we shall be a happy nation; and what esteem the people had of them appears by the elections to the last parliament; wherein, though none but persons well affected to parliaments had votes, and the persons now sitting laboured hard to be chosen, very few of them were elected, the people generally looking upon them as apostates from the Good Old Cause; and therefore no wonder they would have that parliament, to which only they were chosen, never dissolved. I have now little more to do at present (honest and learned Mr Prynne having saved much of my labour) but to let the world see how they go about, by the example of the army, whose apes they are, to cozen the people of their religion, laws, liberties, parliaments, and money, with a rattle called the Good Old Cause, which is a very cheat, as you may see by the ensuing penitential letter of one better skilled in their cheats than I am.

Mr Hugh Peter's Letter, written to a chief Officer of the Army.

Sir,

Whereas the late transactions of the army have very sore afflicted me, and with Heman, Psal. lxxxviii. 15. have exceedingly troubled me, because of my love to my native country, and the concernments thereof, I thought it my duty, being under much bodily weakness, to desire you to take and give notice unto others of these my apprehensions ensuing.

1. Though called to speak to the officers, I knew not their further intentions.

2. When I heard of his highness's distasting their meetings, I went to three of the chief, and begged, as for a penny, that they would not proceed in any meeting, and did the same to other officers I met withall.

The dangers, I conceive, are these; because the protector and the two houses, as they were set, was the hopefullest way in the whole world to settle these nations, and the crossing thereof most dangerous, as now it appears, both in the sin and sorrow of it. As,

1. All the army's addresses to his highness to live and die with him are broken, and their proclaiming of him every where slighted.

2. His family, himself, and lady, being truly godly; yea, such a family of godliness and sobriety, not known in the christian world, now broken, and the son of Jerubaal not regarded.

3. The authority of the best parliament, and most freely chosen, trampled upon; yea, such a sort of men gathered together as would have been a defence and establishment against all evils.

4. Nothing set up in their place, an enemy at the door, a penurious soldiery, thousands of poor perishing, that by this time might have been paid, widows and orphans already dying in the streets.

Trade gone, private soldier grown master, law and gospel dying, the whole protestant cause in the whole world overtottering; how much animosity, discontent, and self-ends have prevailed herein, I know not; but if the least encouragement was taken by any word of mine, who was a stranger to any design, I do here profess my sorrow and grief for the least occasion of it, and look upon the whole business as very sinful and ruining, of which the child unborn and after ages will be sensible; and this I write from the saddest spirit of a sick man, and

Your loving friend,
HUGH PETERS.

I know but one expedient, which is,
That his highness may be in the same condition with his house and family; and that he be desired to call in as many of the late parliament as are at hand, to make up a house and council, and indemnity to pass, and so forthwith to settle things. And for that which they call the Good Old Cause, (I look upon it as a cheat by the jesuits put upon the army) the which we enjoyed, it being liberty and peace.
Whitehall, May 10, 1659. *Thus far* Mr Peters.

But for a further discovery of the cheat obtruded upon the people by putting of the Good Old Cause, I shall, to avoid large recitals of remonstrances, votes, and declarations of parliament, state the true Good Old Cause in the house of commons own words, briefly out of their declaration of the 17th of April, 1646, at the end of the war, when they were full and free, which they caused to be affixed in all the churches of England, to call God and man to witness their sincerity therein. And because the title of it is very significant and comprehensive, take that at large, viz.

Die Veneris, April 17, 1646.

A Declaration of the Commons of England assembled in Parliament, of their true Intentions concerning the ancient and fundamental Government of the Realm; the Government of the Church; the present Peace; securing the People against all arbitrary Government; and maintaining a right Understanding between the two Kingdoms of England and Scotland, according to the Covenant and Treaties.

The preamble recites, how their good intentions had been misrepresented by divers declarations and suggestions of the king, and thereby, and by other practices, the minds of many possessed with a belief that there was no just cause of the war; and that, now they had succeeded in the war, they desired to exceed or swerve from their first aims and principles in the undertaking the war, and to recede from the solemn league and covenant and treaties between the two kingdoms, and that they would prolong these uncomfortable troubles and bleeding distractions in order to alter the fundamental constitution and frame of this kingdom; to leave all government in the church loose and unsettled, and themselves to exercise the same arbitrary power over the persons and estates of the subjects which that parliament had thought fit to abolish by taking away the Star-Chamber, High Commission, and other arbitrary courts, and the exorbitant power of the council table.

Then they declare, in general, That they will settle religion in purity, according to the covenant, maintain the ancient and fundamental government of this kingdom, preserve the rights and liberties of the subject, lay hold on the first opportunity of procuring a safe and well-grounded peace in the three kingdoms, and to keep a good under-

standing between the two kingdoms of England and Scotland, according to the covenant and treaties.

Then to give fuller satisfaction, they declare particularly concerning church government, that they are for the presbyterial government, with a due regard that tender consciences, which differ not in any fundamentals of religion, may be so provided for as may stand with the word of God and the peace of the kingdom.

Then they declare, that there was nothing they had more earnestly desired, nor more constantly laboured after, than a safe and good peace (with the king) which is the just end of a just war; and here they assert the fundamental constitution and government of this kingdom to be by king, lords, and commons, which they will not alter.

Then they conclude, that the first and chiefest grounds of the parliament's taking up arms in this cause, was to suppress attempts of introducing an arbitrary government over this nation, and protecting delinquents, enemies of our religion and liberties by force from the justice of parliament, and declare that they will not interrupt the ordinary course of justice in the several courts and judicatories of this kingdom.

This is the Good Old Cause the parliament owned.

And therefore, let all that fear God in the three nations consider whence they are fallen, even from the Good Old Cause held forth in the votes, remonstrances, declarations, protestations, vows, and oaths of the parliament, published in maintenance of our ancient and well-tempered settled government, by king, lords, and commons, to a sneaking oligarchical tyranny, under the bare name of, The Good Old Cause; which is as changeable as the addle-heads that contrive it, as oppressive as the corrupt wills of licentious men can make it, must be as arbitrary as the army will have it, and shall be more fully decyphered if they persist in it, which they never dare do if the people, who yet seem to be in a lethargy, remember their first works, and be as resolute to assert their religion, laws, and liberties, as these desperate men of lost fortunes and reputations are bold to trample them under foot, and make this great people (once famous through the world for valour, wisdom, and religion) a scorn and derision to all that are round about us, and themselves monsters of men, by their atheism, apostacy, and inconstancy.

I shall conclude with some advice (now it is seasonable) to the army, to the people of all sorts and degrees, and to the members sitting at Westminster.

1. *Faithful Advice to the Army.*

1. Remember the ends for which you were raised,—*For Defence of King, Parliament, Religion, and Liberties;* that you were servants to them and received their wages, and were tied by oaths to them.

2. Remember how, in 1647, you were first, by some of your ambitious officers, most whereof are since dead, seduced to rebel against and betray your masters (whom you accused falsely) and to refuse to disband when the war was ended, whereby you are become oppressors and robbers ever since, and mere Janizaries.

3. Remember how in December, 1648, you rebelled the second time against your masters, and forcibly and traiterously as well as perjuriously broke the parliament, imprisoning and driving away most of the faithful members, keeping only a few that prostituted themselves and the rights and liberties of the kingdom, with the lives of the king, nobles, and commons, to their own ambition, and to your lusts and wills, as your pensioners in the house, till April, 1653, when you rebell'd against them; and for their self-seeking and notorious crimes and miscarriages (printed then at large in your declaration) you absolutely dissolved them, to the general satisfaction of the people.

4. Remember how giddily and impiously your ambitious wicked officers have led

you through horrid murders, treasons, and breach of oaths, from a happy settled government under a king and parliament; first, to a ridiculous commonwealth, thence to a new kind of protector, thence to Praise God Barebone's Little Parliament, thence to a protector with an instrument of Lambert's making, but never in tune, thence to tyrannical major-generals, thence to a new crotchet called the Petition and Advice, thence to a new protector and two houses of parliament, whereof one was still-born, thence to build up the things which you destroyed, whereby you have made yourselves transgressors, Gal. ii. 18.

Thus have you marched so fast from one government to another, that the poor people wearied out, are fain to return home and sit still in amaze, abhoring your unstable ungodly ways, and crying to God in secret that he will at length restore unto England our kings and nobles as at the first, and our judges as at the beginning, making it a quiet habitation, which by your ungodly courses hath been so long a howling wilderness full of birds of prey and beasts that do devour.

I have no more to say to you, but that if your misleading officers can reconcile your actings since 1646, to the scripture rule, which you find in Luke iii. 14. by which all christian soldiers much more than heathen are to walk, viz. "Do violence to no man, neither accuse any falsely, and be content with your wages," then let them go for honest men, and count me mistaken: But if this discourse of mine, by God's blessing, becomes instrumental for the awakening your drowsy cousciences, to see your long course of sins and provocations and to repent, then let me tell you your work is short to make your selves and the kingdom happy; for, as you have lately gone six years backward at one step, viz. from this time to April, 1653, so if your officers and you will but make one step more, viz. from April, 1653, to December, 1648, to our ancient long-experienced and fundamental constitution of government, by king, lords, and commons, you will justify your repentance to be sincere, and render it famous to all the world, and deserve and have rewards from your country instead of indemnity, which you now beg from every power that sits.

2. *Advice to the People of all Sorts and Degrees.*

Delirant reges plectuntur achivi, your rulers dote and go astray, but you suffer by it as well as they; therefore strive to set them right; and though they forget their oaths and promises, do you remember yours. Have you ever seen quiet or settlement since the king was inhumanly murdered at his own gate, and our ancient government by king, lords, and commons changed; since our covenant was counted an almanack out of date? This was one in 1648. Shall I persuade you to return whence you are fallen? I need not. I know you are ready for it, and watch your opportunity.

Let me only tell you the time is now come; for, having tried all other ways, insomuch that we are going round again where we first turned aside, you see no foundation to build upon but our ancient one. Strive therefore for the restoring of king, lords, and commons, that you may enjoy them and be happy. Remember how the ministers and others of London, Essex, Suffolk, Northamptonshire, Lancashire, and other counties, gave their testimony against the king's death in 1648, and repent for that blood with which the land is defiled. Let those who so boldly, in their late mutinous representation to the protector, moved for a justification of the king's death, and all acts done in pursuance thereof, know that they may as soon pull the stars out of God's right hand as make those that fear his name in England justify such a horrid impiety, for which God hath made us an unsettled people ever since, and hath given them and the kingdom no rest ever since; nor will till they repent and do their first works, and call all the members of the Long Parliament together to sit free, that they, or a new parliament called by their advice, may, upon the secure terms offered at the Isle of Wight by the king, and such further reasonable additions as the times may re-

quire, restore us to our ancient government, and put an end to our giddiness and confusion, which destroys trade, encreaseth poor, and threatens ruin to our religion and laws.

And let none be any longer deluded with the bastard Good Old Cause, now cried up by some, which is but the setting a self-seeking generation of unstable bloody men in supreme authority, who, as zealous as some of them seemed lately in the new dissolved parliament for the liberties of the people, think now that, by their hypocrisy and falsehood, as well as force, they have advanced themselves upon the ruin of their country; that the work is done: And though they have cried down a single person, and another house, think you such fools or slaves that you will not take notice that an armed general is a worse single person, and such a co-ordinate senate as they intend by the proposals of the army, (which now are come to the house by way of petition, as if they had not been agreed on before,) a worse other house than the last, which was the worst that England ever saw: And this Rump of a cashiered house of commons, taken into service again at mercy, and new dressed by Sir Henry Vane, (another single person amongst them,) worse than the late house of commons, which was full and free, or than the Long Parliament restored to its freedom, or than any other that may be chosen by the free votes of your selves, and legally summoned to sit and decree our settlement.

I shall say no more to you, but desire you to consider what I have said to the army, with hearts ready to forgive them, and pay them their arrears with additional rewards, if now at length they repent and restore our violated government, and obediently submit to what they and the king shall ordain for the settlement of these destracted and no otherways to be cured nations; for we see by experience that one faction devours another, and will at length devour the people and their liberties in the ways of sin and guilt that we are in. Let all of you therefore insist on this, that the members of the Long Parliament, who have been unjustly imprisoned and secluded, may be restored to discharge the trust you have put in them; and then we may hope for settlement, which we have tried almost eleven years, that we cannot have without them: And if the army shall again interpose and interrupt you in your sober and honest endeavours for settlement, let them find, by your vigorous appearing against them, that you know them to be the meanest of the people, and so few in number, that they are not one in every parish in England, and many single parishes have ten times their number of people.

3. *Advice to the Members sitting at Westminster.*

1. Remember the volumes of remonstrances, declarations, votes, ordinances, protestations, oaths, and covenants, wherein you, as members of that house, with others, have held forth to God and the world, the Good Old Cause you engaged in to be for the defence of the king, parliament, protestant religion, privileges and liberties of the people; and that you renounced all other causes wherewith you were aspersed, and never owned any other till that in March, 1649, after you had injuriously joined with the army in forcing away the majority of the house of commons, and the whole house of lords, you perjuriously apostatized from the Good Old Cause, and set up another of a commonwealth, or free state, opposite to it, and which you had ever formerly disowned as a scandal cast on you when you were charged but with an intention that way.

2. Remember, and be ashamed, that you have stuck at no oaths, but have taken the oaths of allegiance and supremacy, the protestation, the vow and covenant, the solemn league and covenant, the engagement, the recognition of Protector Oliver, the oath to be true and faithful to Protector Richard, and have kept these contrary oaths and engagements all alike, and now do set men of the same stamp in offices and places of

trust, instead of men of courage, fearing God and hating covetousness. But do not think all is well, when you have advanced yourselves and friends; rather believe, that, though returning to what you have so often sworn to maintain, you cannot so many of you be counsellors of state, judges and officers, military or civil, yet you may become honest men and Christians, which will better become you, and bring you more comfort and peace at the last.

3. Remember, that though by lyes and subterfuges men may be deceived and abused for a while, God is not mocked, Gal. vi. 7., but will, though he bear long, at length wound the hairy scalp of such as go on in their wickedness, Psal. lxviii. 21., and pierce you through with many sorrows.

4. Consider how God had emptied us from vessel to vessel, and led us through a wilderness of changes these eleven years of apostacy, and gives no settlement. Return, therefore, to December, 1648, where you forsook settlement when it was offered by the king and accepted by the parliament; and in doing your first works for king and parliament in a full and free house, God will bless you and this kingdom as at the first; and the present protector cannot but rejoice also to part with his power upon those terms which both he and his brother, the Lord Lieutenant of Ireland, must needs grudge to have wrested from him by you and his treacherous relations.

I intended a word also of justification of Mr Prynne, but that his learned and seasonable writings praise him in the gates,[1] and carry such evidence of undeniable truth with them, and so clear a testimony (from a martyr for the people) against the abominable iniquity and horrid impieties of this iron age, that the railing Rabshekahs of the time, in what they belch out against him, do but as dogs that bark against the moon, and therefore I shall leave him to the cure prescribed by God himself for such tongues in the 120th Psalm, ver. 3, 4. " What shall be given unto thee? or, what shall be done unto thee thou false tongue? sharp arrows of the mighty with coals of juniper;" and do depend, as I believe Mr Prynne doth also, upon that scripture word, " That in due time the mouth of all iniquity shall be stopt."

A Plea for Sir George Booth and the Cheshire Gentlemen, briefly stated in a Letter to Sir Arthur Heselrigge. By an unbiassed Friend of Truth and Peace. 1659.

The critical period of 1659 held out an inviting prospect to the cavaliers and presbyterians, long since disposed to take common measures for a general insurrection against the Rump Parliament, which had no part either in the love or respect, or, unless as far as they were supported by the army, even in the fear of the community. But the treachery of Sir Richard Willis, who betrayed the councils of the cavaliers, and some other singular accidents, ruined their schemes.

" Of all the projects, the only one which took effect was that of Sir George Booth for the seizing of Chester. The Earl of Derby, Lord Herbert of Cherbury, Mr Lee, Colonel Morgan, entered into this enterprize. Sir William Middleton joined Booth with some troops from North-Wales; and the malcontents were powerful enough to subdue all in that neighbourhood who ventured to oppose them. In their declaration they made no mention of the king; they only demanded a free and full parliament.

[1] See the next Tract but one.

"The parliament was justly alarmed. How combustible the materials they knew; and the fire was now fallen among them. Booth was of a family eminently presbyterian; and his conjunction with the royalists they regarded as a dangerous symptom. They had many officers whose fidelity they could more depend on than that of Lambert; but there was no one in whose vigilance and capacity they reposed such confidence. They commissioned him to suppress the rebels. He made incredible haste. Booth imprudently ventured himself out of the walls of Chester, and exposed in the open field his raw troops against these hardy veterans. He was soon routed and taken prisoner. His whole army was dispersed; and the parliament had no farther occupation than to fill all the jails with their open and secret enemies. Designs were even entertained of transporting the loyal families to Barbadoes, Jamaica, and the other colonies, lest they should propagate, in England, children of the same malignant affections with themselves."—HUME's *History, Lond.* 1797-8, *vol. VII. p.* 301.

This expostulation is addressed to Sir Arthur Hazelrigge, as one of the commissioners appointed to examine Sir George Booth, and apparently, from his natural violence of temper, disposed to push matters to extremity against him. Sir George Booth was set at liberty upon the arrival of Monk in London.

Sir,

To drive furiously without fear or wit will never render you a good statesman; and partially to distribute your acts of justice and of mercy cannot recommend you to the world as a good Christian. If in both you would approve your self, you ought seriously to weigh, and, as one saith, deliberately taste your words and designs before you can digest and prepare them for action: and to let you know that the country hath observed your precipitation in the one, and partiality in the other, these lines do now salute you. The act of indemnity to the officers of the army, and your rigorous proceeding with Sir George Booth and his party, do most visibly demonstrate that you and your fellow-members have banished all thoughts of justice or consideration in all your resolutions, and how you will answer it, either at the court of Heaven, or of the next ensuing parliament, is past my weak imaginations to conceive; and therefore give me leave (according to my usual plainness) to present you with my thoughts in relation to this so unparallell'd diversity of your proceedings. And, in the first place, let me reflect upon Sir George Booth and his party, and, in your language, admit them rebels against you; and were not Fleetwood, Lambert, Desborough, and the rest of the army officers so too? And what logical or rational statesman can include those within the predicament of passion, and exclude these? 'Tis said, that the fear of them was the over-hasty womb that gave birth unto their indemnity, and therefore your power over the other hath made you so severe against them. But how unsuitable is this to a true Roman spirit, which delights to make chains and fetters rather than open and unconquered rebellion the subject of its mercy! This is the effect of a timorous cowardly soul; the other the most certain product of every truly generous and noble nature. But all this I hint supposing the equality of their crimes, than which nothing can be a more gross and palpable mistake; wherefore, sir, if you would deliberate upon these two actions in their authors, and in their ends, and in the circumstances of both, you will find the one a gnat, the other a camel; and how you should swallow this, and stumble at that, I know no reason, unless it be that of our Saviour's to the Pharisees. However, now let's compare them, and take a short view of their differences. Sir George Booth and his party but endeavoured and affected to fill up your house with its own (supposed most legal) members. The army officers have attempted and affected the subversion of you; or, if you will, the one would destroy the part of the body to preserve the major part sound; the other would destroy the parts, that we should never hereafter have a whole or part of a parliament. The one woold have perfected you, and made you complete in all your integral parts; the other

would not have the least part of a parliament. In a word, one would have a parliament, but not the minor part thereof; the other (from their hatred of the people's power) abhorred the very name of both. The one were acted by their oaths and covenants to assert and defend the freedom and privileges of parliaments, and so their actions may seem to be at most the result of an erring conscience; the other had no visible impulsive cause but their own boundless ambition and insatiable lust after domination. The one would have defended and confirmed, the other would have confounded and subverted all our laws, liberties, and religion. The one were gentlemen of ancient and considerable families, and could not better themselves by a war; the other upstarted mushrooms, and could not have risen but by a war. The estates of the one are the bitter-sweet fruits of cruelty and blood; the lands of the other the gifts of peaceable laws and justice. The one you had provoked by a forcible secluding their members from their privileges in parliament; the other (after your resurrection in May last) you had lately pardoned and afterward preferred. These were your slaves and servants, commissionated by your authority, paid by your treasuries, and therefore obliged, at all times, both day and night, to be at your absolute command and obedience; the other free from all such severe obligation and strict inducements to subjection. The one did rise 150 miles distant from you, hoping that you would consider of a mediation, by a present restoring of them to their most undoubted rights in parliament, and so have prevented any further mischief; but the other immediately flew at your very faces, and had the confidence of some saucy and rebellious servants to take you by the head or throat, and most insolently drag'd you out of your own house, and shut your own doors against you, their sovereign lords and masters. Lastly, the one were, and (I dare say) still are, most universally beloved and esteemed the true (though unfortunate) patriots of their countries, laws, and liberties; the other the very butt, or mark, against which all true English-men do direct and level the arrows of their hatred and most just-deserved indignation. Sir, weigh seriously all these but hinted considerations, and inlarge them in your own more judicious thoughts, and then let me ask you, whether any prudence, reason, or conscience can honourably persuade you to affront the whole interest of this English nation, by ruining their friends and pardoning their enemies? And how shall the people believe that you will ever trust the government in them by succeeding parliaments, if thus you heighten and inrage their spirits against you. Sir, be you confident that never any kept his interest from sinking by swimming against the stream; nor was there any that advantaged himself by a diametrical opposition to the general humour or genius of the people: and therefore it hath been the prudence of antiquity, even in full parliaments themselves, to sedate and compose the spirits of the nation rather by a favourable compliance with them, than by an express and open contradiction unto them. Hence it is you have a parliament roll stiled *Rotulum Contrarientium.* The reason whereof was, because Thomas Earl of Lancaster, (a man singularly beloved,) taking part with the barons against King Edward II., in hatred of the Spencers, it was not thought safe for the king, in respect of their power and interest in the affections of the people, to name them rebels and traitors, but contrarientes. True it is, he that despiseth the people's power, knows not his own weakness, and therefore, by the neglect of the one and ignorance of the other, suddenly makes himself obnoxious to the miseries of a popular rage and confusion. To conclude then, if it be impossible to have any succeeding parliaments (though the royalist be excluded therefrom) that will approve and confirm this your late act concerning Sir George Booth and his party, (the possibility or impossibility whereof I leave to your own thoughts,) is it not prudence to look before you leap, and to ground your actions upon the popular interest, and not upon any particular faction, which (like an *ignis fatuus*) the contrary winds of private parties will easily tumble and toss with a perpetual agitation and inconstancy? Whereas the brightness of a true public interest will keep

its native splendour and glory, maugre all those clouds and storms of opposition which the blustering spirits of private and partial concernments can raise either to eclipse or weaken it; the undoubted experience whereof the revolution of a few months will, I hope, demonstrate unto as well yourself as unto

Your humble servant,

W. P

A short, legal, medicinal, useful, safe, easy Prescription, to recover our Kingdom, Church, Nation, from their present dangerous, distractive, destructive Confusion; and worse than Bedlam Madness: Seriously recommended to all English Freemen, who desire Peace, Safety, Liberty, Settlement. 1659. *By William Prynne, Esq. a Bencher of Lincolns-Inn.*

JUDGES xix. 30. Consider of it, take advice, and speak your minds.

PROV. xii. 19, 20. Deceit is in the heart of them that imagine evil; but to the counsellors of peace is joy. There shall no evil happen to the just, but the wicked shall be filled with mischief.

Ever after the expulsion to which he was subjected among other presbyterian members, by the operation of Colonel Pride's Purge of the Long Parliament, Prynne appears to have been warmly attached to the royal cause, and to have omitted no opportunity of testifying his zeal. The following "Prescription," apparently published during the sitting of the Long Parliament, after its recall by Fleetwood and Lambert, is an evidence of his being a sincere convert to royalty. And in the parliament which immediately preceded the Restoration, he was one of the first to declare, that if the king must come in, it was safest he should come in by the votes of those who had dethroned his father,—a declaration which the cautious Monk thought premature, and checked Prynne for his precipitation. He was, after the Restoration, named, Keeper of the Records in the Tower, with a salary of 500*l.*

THE ambition, treachery, turbulency, avarice, and late infused jesuitical principles of some swaying officers in the parliament's army, aspiring after the supreme authority, government, and publick revenues of our three kingdoms, having so far corrupted their judgments, seared their consciences, depraved their wills, and hardned their hearts, as openly frequently to violate all sacred oaths, vows, covenants, obligations, trusts, commissions, engagements to the late king, his heirs and successors, the old parliament, kingdom, nation, (for whose defence they were originally raised, commissioned) and to their own new-created antiparliamentary junctoes, conventions, protectors, and conventicles, which they have all successively subverted, engrossing the sovereign, royal, and parliamental power in to their own hands,[1] opposing and advancing themselves (by meer treachery, perjury, violence, and other desperate ways of unrighteousness) like that man of sin and mystery of iniquity, above all that is worshipped and called God; making no less than three publick revolutions of our government, and forcibly dissol-

[1] 2 Thess. ii. 3, 4.

ving two parliaments (as they deemed them) of their own modelling,[1] convening, within six months space, last past; and thereby made our formerly renowned nations the scorn, reproach, wonder, derision of all the world; themselves the monsters of men, the shame of christianity, chivalry; exposed our three nations to the uttermost extremity of danger by new unprecedented ataxes, divisions, encroachments upon the hereditary rights, liberties, properties, caused a total decay of all sorts of trade, justice, legal proceedings at home, and occasioned a speedy, much feared invasion from our potent combined popish adversaries abroad, when thus miserably distracted, discontented, impoverished, and totally disabled to repulse them: it is high time for every publick-spirited Englishman in this strange, distracting confusion (which hath almost as much divided, discontented all conscientious officers, soldiers in the army, navy, as the people of all callings, conditions) to contribute their best advice, by all just, legal, hopeful, speedy ways, agreeable with the laws of God and the land, and those rights, liberties of the people, (the defence whereof all officers, soldiers in the army have[2] so frequently, constantly avowed they were principally raised, and resolved to defend, though they have hitherto failed in their promises) to recover us out of the labrinth of our almost inextricable amazing confusion, settle our pernitious distractions, and prevent that visible, imminent, universal desolation else likely to fall upon our church, state, nation, religion, beyond all possibility of escape, through the army-officers rash destructive counsels, and violations of their trusts, oaths, engagements, both as soldiers, Christians, and members of the kingdom.

The only just, legal, probable means now left that I can prescribe both for our nations, churches, armies, present and future safety too (if they will cordially and christianly submit thereto, as they ought in conscience, justice, prudence) is,

1. For all the antient nobility of the kingdom (the[3] hereditary great counsel and counsellors of the nation in all actual interregnums and publick confusions, [as our historians, records, law-books, and the commons themselves in the Long Parliament resolved] both by custom, law, right) to assemble themselves by common consent at Westminster, or so many of them at least, or their heirs, if dead, who constantly adhered to the Long Parliament, and there to issue out writs according to the statute of 16 *Caroli*, cap. 1. on the third Monday of November next, under twelve or more of their hands and seals, for a free and legal election of knights, citizens, burgesses, barons, in every city, county, borough, port, according to former usage, to appear at the parliament house in Westminster the third Monday in January next ensuing, at a parliament then and there to be held, in such manner and form as this act prescribes: wherein such proposals and counsels may by common consent be pursued, as may, through God's blessing, soon restore our pristine peace, trade, honour, wealth, prosperity, felicity, settlement, and secure us from all future changes.

2dly. For all freeholders in every county of the kingdom at the next county court in November, to meet together and make choice of the ablest, honestest, wisest, stoutest gentlemen for their sheriffs, to keep the peace of the county, command the militia, suppress all insurrections, elect, return knights, citizens, burgesses to serve in parliament, and execute the office of a sheriff; it being their ancient legal right and privilege, by special grants of our kings, both in and out of parliament, which none in late or present power ought to encroach upon, or deprive them of, and they are all now bound to exercise and maintain for their own preservation and safety. This their right I shall clearly evidence beyond contradiction.

[1] See their declaration, May 6, 1659.

[2] See their Collection of Engagements, Remonstrances, &c. for settling the Subjects in their just Liberties and Freedoms, London 1657.

[3] See my Plea for the Lords, p. 43, 51, to 60.

1st. By the peoples ancient right in Edward the Confessor's time, or before, in their folkmote to chuse an heretoke (a baron or person of quality) in every county, in nature of a captain, who had the power of the county and militia in every shire, **sicut et Vicecomites Provintiarum et Comitatuum eligi debent per singulos Comitatus in plena Folkmoto**: as sheriffs of provinces and counties ought to be chosen in every county; as you may read at large in Mr Lambard's Archaion, f. 135. *de Heretochiis;* in Sir Henry Spelman's Glossarium, *Dux et Heretochius,* p. 232, 348, 349. My Sovereign Power of Parliaments, part 2. p. 24, 25. Coke's 2 Institutes, p. 174, 175.

2dly. By Rot. Claus. Anno 16 *Johannis Regis,* part 1. m. 2. dorso. *Dominus Rex concessit Baronibus suis, Militibus et liberè tenentibus de* Cornubia, *quod habeant Vicecomitem de aliquo ipsorum* **ad Electionem eorum.** *Idem verò Barones, Milites, et liberè tenentes concesserunt* Willielmo Wise, *quod habeat Hundredum de* Estweneleser *ad feodi firmam, sibi et hæredibus suis imperpetuum, per dimidium marci Argenti, ad festum Sancti* Michaelis *reddendum.*

3dly. By Rot. Pat. An. 5. *Hen.* III. memb. 6. H.[1] *Dei gratia. &c. Archiepiscopis, Episcopis, Comitibus, Baronibus, Militibus, liberè tenentibus et aliis omnibus de Com.* Cornub. *salutem. Sciatis quod concessimus vobis quod liberam habeatis electionem eligendi vobis in Vicecomitem nostrum unum de Com.* Cornub. *Et ideo vobis mandamus quod eligatis tres fideles et discretos de Com.* Cornub. *et illos nobis præsentari fac. apud* London *in Octab. Clausi Pasche, et nos unum ex illis tribus prout nobis placuerit, vobis dabimus ad Vicecomitem. Et interim commissimus Comitatum, illum* Cornub. *cum omnibus illis quæ ad nos pertinent dilecto et fideli nostro* Reginaldo de Valletorta *custodiend. vobisque mandamus quatinus eidem* Reginaldo *usque ad prædictum terminum sitis intendentes et respondentes in omnibus, tanquam vic. nostro et ballivo nostro. Et in hujus, &c. T. H. de* Burgo, *&c. apud* Westmin. 28 *die* Jan. *An. Regni nostro quinto.*

4thly. By Pat. 10. *Hen.* III. memb. 4.[2] *Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus, liberè tenentibus, et omnibus aliis de communibus* Sumerset et Dors. *salutem. Sciatis quod electioni quam fecistis de* Willo: *fil.* Henr. *ad Vic. nostrum faciend. de Comitat.* Sumerset et Dorset *assensum nostrum præbuimus. Et ideo vobis mandamus quod ei tanquam Vic. nostro quamdiu nobis placuerit intendentes sitis et respondentes. In cujus, &c. Teste Rege apud* Winton. 27 *die* Jan.

5thly. By Mat. Paris, Mat. Westminster, Daniel, and others who record, that in the 45th year of King Henry III. the king placed new sheriffs in every county, displacing the sheriffs the barons and people had made; whereupon the people in every county manfully resisted the sheriffs, and would not obey, nor regard, nor answer them in any thing, whereat the king was much troubled. Much less than ought they now to obey any sheriffs obtruded on them by the army-officers, or any other illegal usurped power.

6thly. By the statute of *Articuli super Chartas,* An. 28 E. I. Chap. 8. the king hath granted to his people, **that they shall have the election of sheriffs in every shire,** (where the shrivalty is not of fee) **if they will.** And Chap. 13. Forasmuch as the king hath granted **the election of sheriffs to the commons of the shire,** the king willeth, that **they shall chuse such sheriffe as shall not charge them,** and that they shall not put in any officer for rewards or bribes; and that they shall not lodge too oft in one place, nor with poor persons, nor with men of religion. By which statutes, (being but confirmations of the people's former rights by custom, or kings grants, on which some of them encroached, which was the occasion of these acts) all counties used to elect their sheriffs; and if they elected any mean or unfitting person, as they sometimes did, he then commanded them by his writs to chuse another who was fit to discharge that office; witness this memorable record ensuing.

Cl. 31 Ed. I. m. 13. dorso. *Rex Coronatoribus et toti communitati Comitatuum* Salop.

[1] *De Com. Cornub.* [2] *De Vic. electo in Com. Sum. et Dorset.*

et Stafford. *salutem. Cum nuper pro communi utilitate regni nostri inter alia concesserimus populo ejusdem regni, quod habeat si voluerit electionem vic. in singulis comitatibus dicti regni cum opus fuerit Vicecom. prædict. in eisdem, ubi videlicet Vicecomes de feodo non existit. Ac* Ricus: de Harlegh *per vos in vic. comitatuum prædictorum nuper electus, ad officium illud faciendum minus sufficiens est, sicut ex testimonio fidedigno accepimus: Vobis mandamus quod aliquem qui melius sciat et possit officio vic. dictorum comitatuum intendere et utilior fuerit ad idem officium exequendum in vic. eorundem comitatuum pro vobis, si volueritis, eligatis, et ipsum sic electum per aliquem legalem et circumspectum hominem ex parte vestra cum literis vestris patentibus sub sigillis sex de discretioribus et probioribus Mil. eorundem comitatuum Thess. et Baronib. nostris de Scaccario in crastino Sancti Michaelis prox. futuri sine dilatione præsentetis, ut ipse tunc ibidem præstito sicut moris est sacramento, ex tunc ea faciat et exerceat, quæ ad officium Vicecomitis pertinent in com. prædictis. Et habeatis ibi tunc hoc breve. Scituri, quod si talem per vos electum modo prædicto non præsentaveritis eorum præfatis Thess. et Baronibus nostris in crastino prædicto, prædicti Thess. et Barones extunc nobis de alio Vicecomite vobis præficiendo in defectu vestri providebunt.* Teste Rege apud Sarum 16 die April.

8thly, By Claus. 12. Ed. III. pars 2. m. 15. Claus. 13. Ed. III. pars 3. dors. 16. Claus. 14 Ed. III. pars 2, m. 3. **De Vicecomitibus Eligendis per totam Angliam:** wherein are several writs issued authorizing and commanding the people to **elect their sheriffs in every county throughout England**, with other records to the like effect, over-tedious to recite at large.

9thly, By Mr Lambarde's Archaion, f. 135. and Sir Edward Coke's 2 Institutes on Magna Charta, p. 174, 175, 558, 559, 566; who resolve, That sheriffs in ancient times were and oft to be chosen by the freeholders of the county in the county court, as conservators of the peace, coroners, verdurers, constables, petty constables, were then and since elected likewise by the people, as well by the king's writs as without them, in cases of necessity.

10thly, By the constant custom of all corporations which are counties within themselves, having power annually to chuse sheriffs only by the king's charters without any special writ, as London, Bristol, Glocester, York, Canterbury, Coventry, &c. use to do. Therefore every county in England and Wales may do the like without any special writs, being a necessary, annual, antient, standing office, especially in these confused times, when none have any legal authority to issue out writs or commissions to elect or swear sheriffs by virtue of the premised statutes: And the army-officers, with other self-created usurping powers, may as lawfully obtrude mayors, sheriffs, and other officers on every corporation of England without their election, and deprive them of their freedom to elect them, as thrust sheriffs, justices of the peace, coroners, or other eligible officers upon counties, and rob them of this their just antient right and privilege, now strenuously to be revived, asserted for their common safety, against all encroachments thereon. The statute of Westminster 1. ch. 5. enacting, declaring, That all elections ought to be free, and not **disturbed by force of arms**, under great forfeitures, by no men **nor others**.

3dly, Let all counties, cities, boroughs, ports, make choice of the wisest, ablest, stoutest, discreetest persons, such as are best affected to peace, settlement, and the nation's publick interest, for their knights, citizens, and burgesses, not of raw, unexperienced, timorous, or time-serving, unstable, self-seeking turbulent men.

4thly, Let all counties, cities, noblemen, gentlemen, yeomen, clergy-men, and freemen of the nation, unanimously resolve to obey no new, illegal, tyrannical, upstart powers, officers, conventicles, committees, or councils of men whatsoever forcibly obtruded on them, nor to execute any of their orders or commands; but only to obey such legal

officers as themselves shall legally elect, or a free parliament duly elected by them; nor pay any taxes, customs, imposts, excises, contributions whatsoever, to any officers, soldiers, collectors, but such as shall be imposed by common consent in a free and lawful parliament, it being their ancient birthright (for defence whereof the army was first raised) ratified not only by sundry antient statutes, and the late Petition of Right, but several acts, votes, declarations, judgments, the last Long Parliament of King Charles, acknowledged in the Instrument of Government it self, the late petition and advice, the armies own former declarations, and the late dissolved juncto in their very last *knack* of the 12th of this instant October, their plea and papers since.

5thly, If any officers and soldiers of the army, out of faction, ambition, self-ends, or jesuitical seduction, shall obstinately, traiterously, maliciously, or tyrannically oppose the people in their elections of sheriffs, knights, citizens, burgesses, or levy any taxes, excises upon them by armed violence, contrary to all their former forfeited, now expired commissions, declarations, engagements, let them then unanimously declare and proceed against them as professed publick enemies, traitors to their native country; who, by their former and late treacheries, rebellions, and unwarrantable proceedings against all their superiors, (transcending all precedents in profane or sacred stories) have actually in law, justice, forfeited not only all their commissions, commands, and arrears of pay, but their very lives, lands, estates; and that our whole three nations, by their solemn league and covenant, for their own future preservation, are obliged to bring them to publick justice, as themselves have proceeded against hundreds, nay thousands, of other delinquents not half so criminal as themselves; and thereupon intreat all other officers, soldiers in the army, who have any fear of God or love to themselves, their posterities, or native country, remaining in their breasts, as Moses did the congregation of Israel in the rebellion of Korah, Dathan, and Abiram, who mutinied the people against him and Aaron, Numb. xvi. " Depart I pray ye from the tents of these wicked men, and touch nothing of theirs, lest ye be consumed in all their sins. So they gat up from the tabernacle of Korah, Dathan, and Abiram on every side." And as many officers, soldiers, as shall thereupon desert the tents of their rebellious commanders, and contribute their assistance for the speedy calling and safe sitting of a free lawful parliament, without any future mutinies to interrupt or dissolve it when convened, according to the premised statute of 16 Caroli, c. 1. let them be assured of their full arrears and of indemnity for what is past, which none else but a free and lawful parliament can grant them, all other indemnities being void in law. And if this will not satisfy, let them beware, lest the earth cleave asunder that is under them; and then open her mouth and swallow them up alive, with their houses, men, goods, and all appertaining to them, and they perish from among the congregation, as Korah, Dathan, and Abiram with their families and adherents did, by this or some other exemplary judgments, and a universal insurrection of our three whole discontented, oppressed, ruined nations against them, which they may justly fear and expect, if they believe there is a righteous God that judgeth in the earth, a Lord of Hosts able to scatter, punish, execute vengeance on them here, and cast them into hell for ever hereafter, for their manifold, unlamented, reiterated, transcendant rebellions: or repute these texts canonical, which I shall recommend to their saddest meditations. Prov. xxix. 10. " He that being often reproved hardneth his neck, shall suddenly be destroyed, and that without remedy," (as the late anti-parliamentary junctoes and protectors have been) Prov. xi. 21. " Though hand go in hand, yet the wicked shall not go unpunished." Psal. lxviii. 21. " God shall wound the head of his enemies, and the hairy scalp of such a one as goeth on still in his trespasses." Esek. xxiv. 14. " I the Lord have spoken it, it shall come to pass, I will do it; I will not go back, neither will I spare, neither will I repent; but according to thy ways, and according to thy doings I will recompense, and they shall

judge thee, saith the Lord." Col. iii. 25. "He that doth wrong shall receive according to the wrong done, and there is no respect of persons with God;" who can in a moment as easily destroy an whole army and great host of men (as he did Sennacherib's, Jeroboam's and other armies, 2 Kings xiii. 35. 2 Chron. xiii. 16, 17.) as any one single person.

October the last, 1659, the day of king-condemning John Bradshaw's death and translation to his proper place, and arraignment in the Highest Court of Justice.[1]

A Declaration from his Majesty the King of Scots. Also a Letter to the Right Honourable the Lord Lambert, from a Lover of Peace and Truth.

"The reader will perhaps doubt whether the following piece is really what it pretends to be, a Declaration of King Charles II. under the modest title of King of Scots, when he discovers that it was not countersigned by any one of his majesty's ministers, nor dated from any place; but when he reflects on the several articles of which it is composed, and the perfect agreement which they have with the distracted condition of the king's affairs at that time, and the style and manner of that afterwards published from Breda, he will, perhaps, doubt no longer; and that more especially, when he farther reflects, that after the death of the Protector Oliver, the factions which were undermost had recourse perpetually to the king; and that his majesty made no difficulty to send them such answers as had a tendency to keep up their expectations and continue their dependence upon him: As to the letter to Lambert, which accompanies the declaration, it is uncertain whether it had the sanction of the king's authority: But the affirmative is most likely, because of the offers which it contains, which could not have been made good without it; and because Lambert, having then newly reduced Sir George Booth, was looked upon as the most considerable person in the army."

Thus far the former editor. The differences between Lambert and the council of officers on the one hand, and the Rump Parliament on the other, were now grown very hot, insomuch that Sir Harry Vane had the cruelty to ask Mrs Lambert (being one of his own fanatical sect) whether she had arrived at the state of perfection necessary to resign her husband to death for the establishment of the commonwealth? to which tears were her only answer. In these circumstances it was natural that the royalists should endeavour to induce Lambert to attempt that game in which Monk afterwards succeeded against greater obstacles. That they had some hopes of success is evident from an expression in one of Rumbold's letters to the king, where he says, "Lambert hath nothing but your majesty to preserve him from ruin." But having missed the

[1] The death of the celebrated Bradshaw, who presided among the regicides who condemned Charles I., is thus commemorated by Heath:—"That wretch Bradshaw died at the lodging given him in the deane-house at Westminster, the beginning of the month of November, in the same desperate impenitence in which since the fact he lived, saying to a gentleman on his death-bed, that charitably advised him to examine himself about the matter of the king's death, that if it were to do again he would be the first man that should do it. He was freed by this disease (which was occasioned by an ague as Cromwel's) from the terrour and fear of the ensuing change, the apprehensions whereof settled in him ever since (his country) the Cheshire design. He was grown publiquely confident, and had left off his guards he first kept about him; but this privacy was more than usually, and all his actions and gestures more reserved. He was carried out with a great funeral, and much attendance of the men of those times, and was interred in the Abbey, and his crime published for his commendation."—Heath's *Chronicle, Lond.* 1676, *fol. p.* 430.

opportunity, which, if it had not raised him to the ticklish dignity of Cromwell, might have secured him in the peaceful enjoyment of wealth and rank, the rest of Lambert's voyage of life was spent in shallows. He was condemned for treason upon the Restoration, but reprieved at the bar, and sent to the island of Guernsey, where he lived thirty years in a state betwixt exile and imprisonment.

CHARLES REX.

WE, having lately received an overture from some persons in England, with a seeming pretence of a peace and reconcilement betwixt us and our subjects of England, and although they acknowledge themselves few in number, and not so well resolved as to trust us with their names, yet undertake, on the behalf of many thousands, to make good their propositions to us, *conditionally*, that we grant and assure unto them, their (as they call them) reasonable and modest requests: Whether these men's intentions are just and upright, as they pretend, or whether, with Joab's salutation to Abner, they would entrap us to our destruction; or with Shimei, come the first of all the house of Joseph, to meet us, not being able to support themselves in their decaying condition, we shall not be much desirous to enquire after: Only from hence we take occasion to let those persons and all the world know, that we are ready to grant to all our subjects (some very few excepted) more than they can have the confidence to expect from us: Yet let not any rash judgment condemn us for our large offers, as, being in so low and forlorn a condition as never any christian prince for many ages hath been, that we are forward in promises though intend little or no performance: We say, were our calamity more heavy upon us (which can hardly be) we shall not be drawn by the greatest allurements and advantages, to pass our engagement for any thing we are not fully resolved to perform, which being chiefly for the general good and peace of all our subjects, we cannot but hope for a happy success to ensue, and therefore to declare that (if peaceably received) we shall forthwith grant,

1. A general and free pardon to all (seven of those only excepted, which were the bloody judges and murderers of the king our father.)

2. That all the armies shall be within six months disbanded, if monies for their satisfaction can, in a parliamentary way, be so soon raised, and that they shall have all arrears fully paid them, and three months pay over and above to every common soldier, for their better removal, and settlement in their former or better way and place of living.

3. That the armies being so satisfied and disbanded, no soldier shall be continued, but in the ancient garrisons accustomed on the sea coasts, and that no new army shall be raised, or any fleet by us set forth to sea, upon any occasion whatsoever, but by consent of parliament.

4. That not any of our subjects shall be burdened with taxes, excise, free-quartering, or other illegal payments or pressures, or any oaths imposed, nor any debarred of their liberties, questioned for their lives or estates, for any cause or pretence whatsoever, but by the ancient and known laws of the land, according to Magna Charta, and the Petition of Right.

5. That the purchasers of crown-lands and rents, being satisfied their purchase-money and interest by the profits thereof, and further payment, to their full reimbursement, the said lands and rents may return to the crown again, we being resolved, in the mean time, to cast ourself on the love of our subjects for our future support: And if the parliament (that shall next be called) shall not think fit to give us a reparation, and such a competent revenue as we might expect, we have learned, and shall submit, (if there be occasion) to the condition of the meanest of our predecessors.

6. That the purchasers of bishops and deans and chapters lands and rents, being in like sort satisfied their purchase-money and interest by the profits and further payment till they be reimbursed, that then the said lands and rents shall be conferred on the clergy and ministry, as the next parliament shall ordain.

7. That, as soon as writs can be issued, a free and legal parliament shall be summoned, and the privileges thereof maintained, without any exemption to any person whatsoever, being legally chosen and returned, according to the ancient laws and customs of England in that case provided.

8. That the parliament shall be desired by us (and with whom we shall concur) to take care for the settling of the protestant religion, and the public worship of God, with liberty for tender consciences, and for the providing for the ministry in the first place, as being the most weighty affair, and ought to be preferred before any other concernment whatsoever, without which no blessing from above can be expected upon our government.

9. That if the parliament shall pass an act of general pardon (and if they shall desire those seven persons by us intended to be executed shall be included, and giving us satisfactory reasons for the same,) we shall concur with them therein.

10. That the affairs of the land and our government shall be constantly regulated and managed by parliaments, and that the act for triennial parliaments shall be by us duly observed.

We acknowledge it is very difficult, if not impossible, to please all, especially where there are so many divisions, and every man almost of a several mind and opinion; but as we have proposed to ourself, so shall we endeavour to give all reasonable satisfaction to all our subjects. And if the actings of the representatives in a free parliament of their own choice can satisfy them, we shall not be wanting in summoning and concurring with them; but if that will not please them nothing will.

Now, if these condescensions of ours shall have so much freedom of passage in England, as many a scurrilous and lying pamphlet, which get abroad without check or controul, we are confident that all of understanding that are not wilfully blinded, or not over-swayed with present self-interest, thereby knowing our large offers, must needs be fully convinced of the amplitude thereof, extending to all their grievances.

However, if it shall be instanced wherein we are too short (for we are ready, for good and peace of the nation, to give large satisfaction and ample assurance to our most inveterate enemies,) we, having yielded to all matters of most importance, shall not stick at lesser things.

And if any that have been adherers and assisting our late royal father and us, shall think we are herein too free and indulgent to such, and so many open and professed enemies, and we have no provision for our servants and friends, we desire them all to consider our own and also their conditions, and how things now stand in England, that neither we nor themselves can otherwise (in any probability) better ourselves, unless by a bloody and hazardous war, which, though we cannot doubt of the lawfulness on our part, and consequently a prosperous success, if we shall be necessitated thereto, for the recovery of our just right, yet we are assured that the God of peace will rather prosper a peaceable than violent and forceable entrance; and therefore we hope all those our friends and loving subjects will rest fully satisfied with that we shall do pursuant to these propositions, we being desirous hereafter to consider their sufferings (though not comparable to ours) as God shall enable, and in all just and lawful ways.

And now we wish that all the people of England would remember how they have performed their protestations, oaths, vows, solemn league and covenant: But, to instance in no more than the honour and privileges of parliament, the foundation of all their laws, which they have so often sworn and vowed to maintain with their lives and

fortunes, what face of a parliament they have now left, which should consist of three estates, king, house of peers, and house of commons; the two first wholly destroyed; and what of the last is in being (not to mention at least an hundred and fifty that, at the beginning of the wars, left them and went to Oxford) when a considerable number of their own party protested against their proceedings, and deserted the house; how many imprisoned, and what great numbers by force expulsed, by that late bloody and hypocritical usurper; which actions of his, though they were a main step to his intended throne and tyrannical government, yet are so well relished by that tail of a parliament remaining, that they are resolved neither to readmit the persons so illegally and injuriously expelled, nor to fill up the void places of any removed or dead; so that, in a few years, what by death and new expulsion, they may reduce themselves to the number of those infamous tyrants of Athens, and, if they can establish themselves by their designed militia, and that they may thereby be able to command their now masters, the swordmen, and cashier them, they will model such a new army as shall be in subjection to them, and then vote themselves, their sons and nephews, a parliament for ever.

Let those that have generous English spirits seriously consider into what a labyrinth of woe and misery they have run themselves, and now lie under; what a confusion there is in church and state, that what hath been gotten by blood and rapine must be so upheld; the government these usurpers would settle not being to be maintained but by continual armies and navies, and the support of these must be taxes, excise, free-quarterings, and chargeable militias, and other insupportable burdens to perpetuity.

Now let the whole nation beg and implore a blessing from the Father of Mercies, and let them all be of one heart and one mind, to free themselves of these iron yokes and heavy pressures, and join and concur with us in establishing a peaceable government, to the great joy and happiness of the honest and true-hearted, and to the advancement of the true protestant religion and God's glory. And let them all unanimously with one voice say, Amen.

A true copy, taken from the original.

A Letter to the Right Honourable the Lord Lambert.

Sir,

Let it not be a trouble to you to read a few lines from one unknown, but a much honourer of your noble spirit, and therefore desirous to cast in this dram of advice, among those many and weighty debates now before you.

If I should tell you of diverse that had a power or capacity to contribute to, or restore peace to these nations, and have neglected the opportunities, which they have since repented of, I am confident you would, even yourself, point out the men, namely, Essex, Fairfax, Waller, Massey, Brown, Rich, Cromwell, and others.

Sir, we look upon you, at this instant, as having the whole strength of the nation in your hands, but, if you expect to hold it long, you will be miserably deceived; therefore, I beseech you, make good use of this happy opportunity, and consider how great you may make yourself, and how glorious you will be to posterity, if you be a means of laying the government on the shoulders of him that ought to bear it, which will in an instant restore a happy peace and settlement to this distracted nation. Certainly, the greatest honour and a better estate than any English subject enjoys shall be your reward. But if you doubt how the soldier, and persons deeply concerned, that shall concur with you, shall be secured and satisfied, see this Declaration, that to my knowledge hath been near three months in this town, and perhaps not yet come to

your view. Consider of it, and see if all your own seekings, both from one hand and another, in particulars, be not here answered. Lay your hand on your heart, for are you not thereby convinced? Or would you know under what government the people would rest most satisfied, either a single person, council of state, parliament, or army, appoint such a way as every man may, without fear or danger, give in his vote undiscovered. To begin only with this town, let the clerk of every company, or constable of every ward, take a ticket in paper from every man, and put it into a box locked and sealed, and you will find nine parts of ten incline to that constitution we have lived under above these five hundred years; but if not, you will, however, by this course, give great satisfaction to the people, in letting them have each an opportunity of declaring their minds, and thereby you will be rightly informed of their affections, which, being weighed in the ballance of your judgment, you may, with confidence and assurance, steer on a streight course to the haven of happiness and safety.

My Lord, I conceive I have done my duty in declaring my mind, and have no more to say, but that you do as God shall put in your heart, and then go on and prosper.

Your lordship's most humble
And faithfull servant,

October 14th, 1659. S. L.

Out of the Duke of Chandos's Collections.

A Letter from Sir Anthony Ashley Cooper, Thomas Scot, Jo. Berners, and John Weaver, Esquires, delivered to the Lord Fleetwood, owning their late Actions, in endeavouring to secure the Tower of London, for the better Service of the City and Commonwealth. 1659.

The army under Fleetwood's ostensible authority, but in reality under that of Lambert, had again prevented the parliament from sitting, and, at a general meeting of the council of state, had determined that another should be called. In the mean while, the eyes of the parliamentary leaders were turned towards General Monk in Scotland, who was understood to disapprove of the violence offered to them. They were not wanting to themselves, in efforts to obtain possession of the Tower and other places of strength. Nor did they, as appears from the following letter, (which is also published in Thurloe's State Papers,) avoid vindicating these measures, and retorting upon Fleetwood and his council of officers by a charge of endeavouring to establish a dominion by the sword.

Heath mentions slightly the design upon the Tower by Scot and Okey on behalf of the Rump, but adds, it took no effect.—*Chronicle*, p. 434.

Sir,

UNDERSTANDING you have received some disturbance of late in examining divers persons about a design to surprise the Tower, to save you further trouble, we hereby doe freely own our utmost and hearty endeavours to have put that place into more

faithfull and confiding hands, and that by authority from the council of state, who, at the passing of that resolve, had the sole legall power from the parliament of ordering, directing, and disposing all the garrisons and forces of this commonwealth, both by sea and land; an action so honest and honourable as would not onely have given check to your exorbitances at Wallingford-house and White-hall, but was almost necessary to the preserving the peace and safety of this great city, by giving advantage to them to put themselves into a regular posture of defence, and such an encouragement to the sober party amongst them as would (through God's mercy) have utterly defeated the designs of the common enemy.

Sir, let us tell you this designe was not so vain but that we had (by the blessing of God) possessed that place some weeks since, had we not been frustrated by our mistake in the courage and fidelity of a person whose opportunity, interest, and duty (if not principles,) gave us better hopes: But in this age we are to complain and wonder at nothing, yet we cannot but highly resent the confidence of sending for one of our number by a party of souldiers, as if red coats and muskets were a *non obstante* to all law and publique privilege, not as if that person, or any of us, are afraid or ashamed to own the enterprize before any that have a lawful authority to demand an account of it, which we are sure no single person, juncto, or pack of men at Whitehall or Wallingford house, have a pretence to.

Sir, we have the witnesse with our own spirits that we have and doe cordially wish the preservation and good of you and your family; but if the Lord hath said you shall not hearken but be hardned in your way, we must acquiesce in his providence, and with sorrow look upon that ruine which is flowing in upon you, as upon one in whom we thought we had seen some good.

Sir, consider that in the day of trouble, which is certainly coming upon you, what support you will have to your spirit, when you shall be assaulted with the shame you have brought upon God's people, with the breach of faith to the parliament, from whom you received your commission, with the ruine you have brought upon your native countrey (unlesse the Lord by his own almighty arm prevent it,) and with the misery you have led the poor soldiers into, who, instead of being the instruments of securing and settling the peace and liberty of these nations, enjoying the honour and quiet thereof, their arrears fully paid, future pay and advancement settled and established, in order, and with the blessing of their countreymen, are now become the instruments of nine men's ambition, have made the whole nation their enemies, and are exposed again to the hardship and hazard of a new unnaturall war, without prospect of ever hoping that the issue of these affairs can leave their new masters so rich (though conquerors) as to satisfie their arrears, or so secure as to trust preferment in any hands but such whose fanatick principles or personall relations makes them irreconcileable to the publick interest. But God (we trust) has raised up a deliverer, having by admirable providence put an opportunity and power into the hands of Generall Monk, the ablest and most experienced commander of these nations, whom he hath also spirited to stand firm for the interest of this commonwealth, as well against a rebellious party of our own forces, as the designs of the common enemy (notwithstanding all causelesse and false aspersions maliciously cast upon him,) being warranted in his present actings by especial commission and authority from the council of state, whereas yours is that only of the sword. Our prayers and earnest request for you and all honest men amongst you, are, that you may timely joyn with him, and partake of the honour and blessing of his actions, and your true repentance shall be a greater rejoycing than your defection was a trouble. When Providence shall have separated the precious from the vile, and not have suffered our scumme to boyl in, but shall have placed the sword and civill authority of the hands of men of the best and soberest principles.

Sir, be not so far deceived as to think sober men see not through the mask of this strange new parliament, whose liberty and safety, either of meeting or debating, must be at your pleasures, who, having taken upon you to be conservators of the cause, will only make use of them as your assessors and tax-gatherers, the present interrupted parliament being the sole lawfull authority, and which can onely be hoped to make the sword subservient to the civill interest, and settle the government in the hands of the people, by successive and free parliaments lawfully derived to them.

Sir, we have in sincerity given you our sense, and shall leave you to him that disposes of all men's hearts, and remain

Your servants, so far as you shall be found to serve the publick,

Decem. 16th, 1659.

ANTHONY ASHLEY COOPER.[1]
THOMAS SCOT,
JO. BERNERS,
JOHN WEAVER.

For the Lord Fleetwood, late lieutenant-generall of the army.

The Case of the old secured, secluded, and now excluded Members, briefly and truly stated, for their own Vindication, and their Electors and the Kingdoms Satisfaction. By William Prynne, of Lincoln's-Inn, Esq. one of those Members.

Printed in the Year 1660.

This is another publication of the indefatigable Prynne in behalf of the secluded members, whose presence was now generally desired in parliament, as the Rump had become utterly odious.

JULY 28, 1648, upon the earnest petitions of the aldermen, common council, and city of London, and most counties of England, miserably oppressed, impoverished, distracted, and well nigh ruined by above six years intestine wars between the late king and parliament, the house of commons (when full and free) voted, "That a treaty should be had in the Isle of Wight, with the king in person, by a committee appointed by both houses, upon the propositions formerly agreed on, and presented to him at Hampton Court," which the lords house unanimously assented to; whereupon commissioners were nominated, and sent accordingly to treat upon these propositions with the king; and a special order made and published by the commons house, Sept. 5, for

[1] Afterwards Earl of Shaftesbury. He had been suspected of being concerned in Sir George Booth's insurrection, which he intended to have joined with the whole force of Dorsetshire. A charge of correspondence with the king was also brought against him, and it was with considerable difficulty that he extricated himself from these accusations. Yet he contrived to regain the confidence of the Rump leaders, and continued to act with them, until the arrival of Monk and his army enabled him to throw aside the mask, and avow himself a royalist.

the respective sheriff of each county of England and Wales personally to summon all absent members to meet in the house September 26, under the penalty of 20*l.* for not appearing, in regard of the great importance of this treaty, for quieting the distempers and settling the distracted minds of the people, and because in the multitude of counsellors there is safety. Hereupon all the members repaired to discharge their duty in the house. After a long deliberate treaty for sundry weeks, (wherein the king assented to all the propositions *in terminis*, except three,[1] wherein he so far complied with the desires of both houses that the difference therein seemed not very considerable,) the treaty being fully concluded, was reported to the house of commons December 1, upon which the house presently entered into the debate of the king's concessions. Those who were against them, desiring no peace nor healing of the kingdom's breaches, made this the question, Whether the king's answer to the propositions were satisfactory or not satisfactory? But those who desired peace and settlement made this the only state of the question, Whether the answers of the king to the propositions of both houses were a ground for the house to proceed upon for the settlement of the peace of the kingdom? After four days and one whole night's serious debate, the question being put as last stated, December 5, it was carried in the affirmative, without any division of the house, when there were 244 members in it, besides 60 more declaring themselves for it, who, through age, cold, and infirmity, (being unable to sit up all night,) departed before the question put, the dissenters being not the third part of the members then present. The army, contrary to both houses orders, were drawn up to Westminster, and removed the ordinary guards of the house out of their quarters, giving out menaces during this debate against all who should vote for the concessions, on purpose to interrupt and prevent this vote, and that by confederacy with some of the dissenting members. Yet such was the courage, constancy, and sincerity of the faithful members, that maugre all oppositions and difficulties, they put and carried the vote upon such grounds of reason, truth, justice, honesty, and public interest, as all their opposites were unable to contradict or refute.

The vote being passed, the house appointed Mr Pierpoint and six other members to repair that afternoon to the head-quarters, to confer with the general and his officers, to keep a right understanding and good correspondency between the house and the general and army, and then adjourned till the next morning. The commissioners repairing to the head-quarters that afternoon, were so rudely treated, that one or two of them were secured by some army-officers, and the rest put off and slighted without any conference. December 6. The army-officers sent sundry regiments of horse and foot early in the morning to Westminster, in a warlike manner, who placed themselves in the palace-yards, the court of requests, hall, court of wards, stairs, lobby of the house, and all approaches to it, to secure and seclude those members who assented to this vote, Colonel Pride, and other officers who commanded the guards, having a list in their hands of the members names to be secured and secluded, given them, as was reported, by Cornelius Holland, and other dissenting members. That morning they forcibly secluded above 100 members, keeping them out of the house per force, as they came to the lobby, and seized 41 members in the stairs and lobby, pulling two more out of the house itself, into which they got before the officers espied them. These 43 members they secured all day in the queen's court, refusing to obey the orders of those then sitting in the house, who, being acquainted with their seizure, sent the sergeant twice to command their attendance in the house, without any obedience or success At night all the secured members but four, instead of being carried to Wallingford-House to treat with the general and officers, as was promised, were unexpectedly thrust into a place called Hell, in Westminster, and there kept prisoners on

[1] Mr Prynne's Speech, December 4, 1648, and a Vindication of the secured and secluded Members.

the bare boards all the night, though extreme cold. The next morning three more members were seized, and many others secluded, affronted coming to the house. Those in Hell, about nine of the clock were carried fasting to Whitehall, to confer with the general and army-officers, who imperiously made them dance attendance on them in a very cold room without fire (for sundry hours) or meat or drink, (but some burnt wine and biskets they sent for thither,) till seven o'clock at night, not vouchsafing so much as to see or confer with any of them, as they promised; and then sent them prisoners to the King's Head and Swan, through the snow and dirt, guarded with three musqueteers a-piece, and guards of horse besides, like the vilest rogues and traytors; and there detained most of them prisoners sundry weeks, sending some of them close prisoners to St James's, and afterwards to Windsor Castle divers months space, without the least particular accusation, impeachment, hearing, or trial. The only cause of this their imprisonment and seclusion, as the officers confess in their answer to the house, touching the grounds of our securing, January 3, was our vote of December 5, which the general and general council of officers thus particularly expressed the very next day, December 6, 648 (the day they secured and secluded us) in their proposals and desires to the commons in parliament; wherein they desire, that some members, by name, may be secured and brought to justice. And that those members that were guilty in the votes for the treaty July 28, and December 5, declaring the king's past concessions to be a ground for the house to proceed upon, for the settlement of the peace of the kingdom, have deserted, betrayed, and justly forfeited their trusts for the public: And therefore most earnestly desired, That all such faithful members who were innocent therein, would immediately (by protestation and public declaration) acquit themselves from any guilt or concurrence in those votes, as corrupt and destructive; that so the kingdom may know who they are that have kept their trust, and distinguish them from the rest, that have falsified the same; and that all such as cannot, or shall not, acquit themselves particularly, may be immediately excluded or suspended the house, and not re-admitted until they have given clear satisfaction therein to the judgment of those who now so acquit themselves, and the grounds of such satisfaction be published to the kingdom. In obedience to these imperious desires of the general army-council (the supreme legislators over-ruling both the house and general council of the kingdom) about 45 or 50 members (whereof some were army-officers, authors of these proposals) sitting under the visible over-awing guards of the army-officers from December 6, till after all votes and orders passed, that can be produced for our suspension or seclusion, December 12 and 13, repealed the votes of July 28 for the treaty, and December 5, touching the king's concessions, according to the army-officers proposals, as highly dishonourable to the parliament, and destructive to the peace of the kingdom, and tending to the breach of the public faith of the kingdoms; publishing a declaration, January 15, expressing their reasons for annulling and repealing these votes. And, December 18 and 20, passed two orders, That none should sit or act as members, till they had made and subscribed their particular protestation against this vote. In pursuit whereof, December 20, thirty-four members (whereof fifteen are now sitting, the rest dead or absent) entered their dissents and protests against this vote. December 21. three more, now sitting, entered theirs; December 25, six more (five now sitting) entered their dissents, yet they sate as an house four days, before forty of them had entered their protests, and afterwards admitted others to sit, without entering any protestation, contrary to their order. By colour of which orders alone, and of their vote January 11, upon the army officers answer, That the house doth approve of the substance of the answer of the general council of the officers of the army to the demands of this house, touching the securing and secluding of some members thereof, and doth appoint a committee (of twenty-four) to consider what is further to be done upon the said answer, &c. And of another order in pursuit of these February 2, (three days

after the king's beheading) they have, without any particular accusation, summons, or hearing at all, by their[1] vote of Jan 5, 1659, adjudged and declared, That the members who stand discharged (in manner aforesaid) from voting or sitting as members of this house, in the year 1648 and 1649, do stand duly discharged by judgment of parliament from sitting as members of this parliament; (without so much as naming any one of them particularly in this, or any of their former votes or orders, by which they exclude them:) And it is ordered, That writs do issue forth for electing new members in their places.

This being the true state of the secured, secluded, and excluded members case in 1648 and 1649, to which the vote of Jan. 5, and their forcible seclusion by their order, Decemb. 27, 1659, relates. The questions in law arising thereupon are briefly these:

1. Whether three parts of four, and above two hundred members of the commons house, only for passing the premised vote, Dec 5, 1648, in order to the public peace and settlement of the kingdom, without any sinister respect, after four days and a whole night's debate, according to their judgments, consciences, trusts, duties, oaths, protestation, vow, covenant, the general petitions, desires of their electors, and our three distracted kingdoms, contrary to the sense of the minor part of the house, and general council of army officers, (who were but their servants, obliged to obey their just votes and commands, and no members, judges, to controul them) may be justly or legally secured, secluded, and thus unworthily treated by the army officers, by meer armed power; and whilst thus secured and secluded the house, be ejected, dismembred by the votes of forty or fifty of their fellow-members, only upon the army officers imperious desires, whilst sitting under their horrid visible force; which, by their own and both houses declaration, August 20, 1647, (in case of a contemptible force in respect of this, when no members at all were secluded) nulls all their votes, orders, and ordinances, at and from the very time they are made and passed, and that without any impeachment, hearing or trial whatsoever, contrary to all[2] laws, rules of justice, precedents and proceedings in parliaments, or other courts in former times.

2. Whether every member of parliament, by custom and usage of parliaments, be not obliged, according to his mind and conscience, freely to give his aye and no to every question propounded in the house whilst he is present, and finable if he refuse to do it, without the least blame, censure, or pretence of breach of trust? And whether the freedom of the members debates and votes in the house, in matters there propounded, be not the very principal, essential, fundamental privilege of parliament, demanded by every speaker, and granted by every king to the members at the beginning of every parliament, and denominating parliaments themselves (derived from *parler le ment*) which if once denied or made criminal (as now) and that to the major part, will utterly subvert the very name, essence, and being of all future parliaments?

3. Whether the army-officers and council, out of the house, being servants only, commissioned and paid to guard the members privileges, and obey the orders of the house, and neither electors nor impowerers of the members secluded, be fit judges of the majority of the members votes and debates in the house, which they never heard of, nor were present at, but by mis-reports or relations from others? And if so (as these secluders then and now admit them) whether this will not subject those now sitting, and secluding us, with all members of subsequent parliaments, and all their votes, to the judicature of their guards, or any other number of factious people without doors? yea, justify their own forcible exclusions and dissolutions by Cromwell, April 20, 1653,

[1] Without any declaration at all to the kingdom, counties, cities, boroughs, for which we served, or us, of the reasons, justice, grounds of this their new and former votes, which was expected from them.

[2] Magna Charta, c. 29. 5. E. 3. c. 25. E. 3. c. 4. 28. E. 3. c. 3, 42. E. 3. c. 3. Petition of Right, 3 Caroli.

Original Notes.

and since by Lambert and Hewson, October 13, 1659, for votes and proceedings more unjust and unreasonable than ours of Dec. 5, 1648, is supposed to be, and subvert all the rights, privileges, power, authority, and honour of English parliaments for ever?

4. Whether it be not a far greater breach of privilege, treason, and levying war against the parliament, in the army officers, and sitting members at their request, thus forcibly to secure, seclude, and eject above two hundred members three or four times one after another, only for voting freely according to their minds, consciences, and refusing to retract and protest against their own and majority's votes, than for Cromwell, Lambert, and others, to exclude but fifty, sixty, or seventy of them, sitting as an house of parliament, being encouraged and justified by their own votes, precedents, and commands, to seclude and exclude the majority of their fellow-members for voting contrary to the army-officers desires and designs, who excluded them upon the same account?

4. Whether it be parliamental, rational, just, equitable (admitting the commons house have power in themselves alone to vote out any member for misdemeanors or breach of trust, without the lords, which some deny, upon very good [1] precedents and grounds) that the far lesser part of the commons house may forcibly seclude and vote out the greatest part of their fellow-members, only for over-voting and dissenting from them in their judgments [2] and not more just and reasonable, that the major part, being the house itself in law and conscience, should judge and vote out this minor part, for their anti-parliamentary protestation, and such an unjust forcible seclusion and ejection as ours by the premises now appears to be to themselves and all the kingdom, being the highest breach both of their trust, the privileges and rights of parliament and people's liberties, that ever any members were guilty of since parliaments began.

6. Whether their secluding and [2] voting out all the secluded members, in the gross, 1648, 1649, and Jan. 5, 1659, without impeachment, summoning, hearing, or nominating any one of them in particular in their votes or orders, be not a most unjust, unprecedented, unparliamentary judgement and proceeding, contrary to all rules of justice in all other cases and judicatures whatsoever, and in this and former parliaments? yea, meerly null and void to all intents for its generality and uncertainty, it being the privilege of every member to be first accused. 2dly, summoned to answer his accusation if absent. 3dly, Re-summoned upon default of appearance. 4thly, To hear his charge, and make his defence before he be secluded or suspended. 5thly, To sit and vote in the house till suspended or secluded, by special order and judgement of the house, wherein he is to be [3] particularly named: all which circumstances were punctually observed by themselves in Sir Henry Vane's case, Jan. 9, 1659, before they ejected him, since their vote against the secluded members, which deserved as much right and justice as he, if not far more, who joined with those mutinous army-officers who excluded them. 6thly, If many be jointly or severally accused, by name, they are to make their joint or several answers and defences, and to receive their particular joint, or several censures pronounced by the speaker in their hearing at the bar, as in Sir H. Vane's late case: all which particulars failing in this general vote against them all, the meanest of their electors, and of those for whom they serve (more injured by this vote than themselves) and all judges, lawyers, now sitting with them, will pronounce their vote most absurd and void to all intents, unworthy the wisdom, justice and gravity of those who stile themselves, The Parliament.

[1] See my Plea for the Lords, and registers of parliamentary writs.

[2] These secluders think their votes omnipotent, who can blow up the majority of their fellow-members and whole house of lords with the breath of their mouths, like chaff, without any reason expressed, when as the old gunpowder traytors could not blow them up, but with almost as many barrels of gunpowder as they were then and now members.

[3] Cook's 3 Instit. c. 101. 4 Instit. p. 15. to 25, 38, 39. *Original Notes.*

7. Whether the ordinance published Dec. 15, 1648, in the name of the lords and commons, against a protestation, Dec. 1', 1648, printed in the name of all the secluded and secured members (though not subscribed nor owned publickly by them, nor proved to be published by their order or privity) disabling all the secured and secluded members to sit any more during this parliament (which some pretend the chief ground of their ejection now, though never mentioned nor insisted on before) without naming, hearing, or disabling any of those members in particular, or adjudging them the authors of that protestation, be not merely void and null to all intents, being so general and indefinite, made only by three or four lords, and fifty commoners at most, sitting under that very force which then secluded, imprisoned the major part both of the lords and commons house, and so declared null and void by the speaker's letter, July 29, and the ordinance of both houses, August 20, 1647? Whether the major part of the commons and lords house, then forcibly secluded, might not by virtue of this ordinance, as well as their speaker Lenthal, by his letter, and both houses by that ordinance, declare all proceedings, votes and ordinances in the respective houses, whereof they were members, void and null to all intents during their forcible seclusion, and the force then put upon the houses, without any offence or crime at all deserving seclusion; and were not bound by their protestation, league and covenant, to do, it to preserve their own, and the house's privileges, being the far greater number of members, five times more than those who voted them out? it differing much from the protestation of some of the bishops committed to the Tower for their protestation, Dec. 1641. 1st, Because they were not forcibly secluded, as we. 2dly, Not the majority of the bishops, much less of the lords house, as we. 3dly, They protested against all proceedings whatsoever in both houses of parliament, during their absence (not seclusion) from the house, as void and null, till their restitution, not in the lords house alone, which was the chief, if not only exception against their protestation, though there was then no force upon the lords or commons; but the protestation in the secluded members names protested only against the proceedings in the commons house, during their forcible securing and secluding, and the force upon those that sate. 4thly, They were heard in the lords house concerning it, before they were committed; but none of the secluded members were ever yet heard before their seclusion or securing. 5thly, They were only imprisoned for their protestation, during the lords house pleasure, not excluded and voted out of the house during the parliament. Upon all which considerations, the proceedings of the major part of the lords house against them do no way warrant the declaration of the minority of the commons house and lords against the majority of the commons house, then under a force and secluded, and the majority of the lords house together with them. All which the secluded members presume will fully satisfy those for whom they serve, and the whole English nation, world, and their secluders too, of the injustice of their former and late forcible seclusions and ejections, by their premised orders, votes, and vindicate the rights and privileges of parliament, till they can meet together in safety, to draw up a larger declaration of their case and unjust anti-parliamentary exclusion, without the danger of a new securing, being all ordered to be seized on at Mr Ansley's house in Drury-lane, the 9th of this January, by a party of forty musqueteers, and captain commanding them, accompanied with one of the serjeant's men, who beset and searched the house to apprehend them, but that they were all departed thence before they came thither, and so escaped their hands; the cause of this brief publication.

The secluded members repute it very hard, and complain that they should be thus frequently and long secluded by force, and many of them[1] imprisoned divers years,

[1] Mr Prynne, close imprisoned in Dunster, Taunton, and Pendennis castle near two years and ten months, Sir William Waller, Sir William Lewis, Sir John Clotworthy, Major General Brown, Commissary Copley, and Mr Walker, near two years or more, without hearing or cause expressed.—*Original Note.*

and publickly excluded and slandered by their fellow-members votes behind their backs, without hearing, or the least admission to vindicate their innocency and the justice of the vote for which they are secluded, in the house; and yet be searched after, and re-imprisoned and secured by armed guards by order of their secluders, for endeavouring to vindicate their own innocency, parliamentary rights privileges, and the liberties of those many counties, cities and boroughs for which they serve, without doors, when, as they cannot be admitted to it in the house itself, unless they will first eat and retract their former votes against their consciences, privileges, and abjure their former oaths, protestation, covenant, declaration by taking a new inforced engagement: whereupon they desire their few secluders to consider the 1 Cor. xii. 14, &c. "For the body is not one member but many, &c. But now God hath set the members every one of them in the body, as it hath pleased him. And if they were all one member, where were the body? but now are they many (not few) members, yet but one body. And the eye cannot say to the hand, I have no need of thee: nor again the head to the feet, I have no need of them; nay, much more those members that seem to be more feeble are necessary, &c. That there should be no division in the body, but that the members should have the same care one for another. And whether one member (much more when most of them) suffer, all the members suffer with it; or one member be honoured, all the members rejoice with it." Which consideration, with that of Matt. vii. 12. "Therefore, whatsoever ye would that men should do unto you, do you even so to them, for this is the law and the prophets." 1 Thess. iv. 6. "Let no man over-reach, oppress, or defraud his brother (much less so many brethren of eminency) in any matter, (especially in their public parliamentary trusts, rights, privileges) because the Lord is the avenger of all such, as we have forewarned and testified," (and their own double forcible seclusion hath fully exemplified) might now, at last, convince them of, and convert them from their former injustice and violence, and make them more just and tender towards us than hitherto they have been, either as Christians or Englishmen, who are members of one and the self-same church, kingdom, parliament-house, formerly united together in the strictest bonds of unity and amity, though now sadly divided by their force and fury, to the ruin both of the church, kingdom, parliament, and the house itself whereof they were fellow members.

The Speech and Declaration of his Excellency the Lord General Monck, delivered at Whitehall, upon Tuesday the 21st of February, 1659, to the Members of Parliament at their Meeting there, before the Re-admission of the formerly secluded Members into the Parliament House.

Ordered by his Excellency the Lord General that this Speech and Declaration be forthwith printed and published.

WILL. CLARK, Secretary.

Entered in the Stationers Hall according to order.

Printed in the Year 1659.

It must for ever remain matter of deep uncertainty whether Monk was determined from the beginning to be the restorer of monarchy, or whether it was a step upon which he long hesitated,

and which he was at length induced to adopt, by perceiving it would be at once most agreeable to the people and most favourable to his own permanent interest. The following speech, which he made to the secluded members of the presbyterian interest, after he had recalled them to their seats in the house of commons, is so far from intimating any favour of the royal cause, that it is with justice termed by one of Clarendon's correspondents, "A most bitter speech against monarchy."

The Speech of his Excellency the Lord General Monck.

Gentlemen,

You are not, I hope, ignorant what care and endeavours have been used, and means essayed, for healing the breaches of our divisions amongst ourselves; and that, in order thereunto, divers conferences have been procured between you, though to small effect; yet, having at length received fuller satisfaction from these worthy gentlemen that were secluded than formerly, I was bold to put you all to the trouble of this meeting, that I might open myself to you all, even with more freedom than formerly; but, lest I might be misapprehended or mistaken, as of late it befel me, I have committed to writing the heads of what I intended to discourse to you, and desire it may be read openly to you all.

The Declaration of his Excellency the Lord General Monck.

Gentlemen,

It appears unto me, by what I have heard from you and the whole nation, that the peace and happy settlement of these bleeding nations, next under God, lieth in your hands. And when I consider that wisdom, piety, and self-denial which I have reason to be confident lodgeth in you, and how great a share of the nation's sufferings will fall upon you, in case the Lord deny us now a settlement, I am in very good hopes there will be found in you all such melting bowels towards these poor nations, and towards one another, that you will become healers and makers up of all its woeful breaches. And, that such an opportunity may clearly appear to be in your hands, I thought good to assure you, and that in the presence of God, that I have nothing before my eyes but God's glory, and the settlement of these nations upon commonwealth foundations. In pursuit whereof I shall think nothing too dear; and, for my own particular, I shall throw myself down at your feet, to be any thing, or nothing, in order to these great ends. As to the way of future settlement, far be it from me to impose any thing: I desire you may be in perfect freedom; only give me leave to mind you, that the old foundations are by God's providence so broken, that, in the eye of reason, they cannot be restored but upon the ruins of the people of these nations, that have engaged for their rights, in defence of the parliament, and the great and main ends of the covenant, for uniting and making the Lord's name one in the three nations: And also the liberty of the people's representatives in parliament will be certainly lost; for if the people find that, after so long and bloody a war against the king for breaking in upon their liberties, yet at last he must be taken in again, it will be out of question, and is most manifest, he may, for the future, govern by his will, dispose of parliaments and parliament-men as he pleaseth, and yet the people will never more rise for their assistance.

And as to the interest of this famous city (which hath been in all ages the bulwark of parliaments, and unto whom I am, for their great affection, so deeply engaged,) certainly it must lie in a commonwealth, that government only being capable to make

them (through the Lord's blessing) the metropolis and bank of trade for all Christendom, whereunto God and nature hath fitted them above all others.

And as to a government in the church, the want whereof hath been no small cause of these nations distractions, it is most manifest, that if it be monarchical in the state, the church must follow, and prelacy must be brought in, which these nations I know cannot bear, and against which they have so solemnly sworn.

And, indeed, moderate, not rigid presbyterian government, with a sufficient liberty for consciences truly tender, appears at present to be the most indifferent and acceptable way to the church's settlement.

The main thing that seems to lie in the way is the interest of the lords, even of those lords who have shewed themselves noble indeed, by joining with the people, and, in defence of those just rights, have adventured their dearest blood and large estates. To that I shall only say, that, though the state of these nations be such as cannot bear their sitting in a distinct house, yet certainly the wisdom of parliament will find out such hereditary marks of honour for them, as may make them more noble in after ages.

Gentlemen, upon the whole matter, the best result that I can make at present for the peace of these nations will be, in my opinion, that you forthwith go to sit together in parliament. In order,

1. To the settling the conduct of the armies of the three nations, in that manner as they may be serviceable to the peace and safety of them, and not to its own and the nation's ruin, by faction and division.

2. To the providing sufficient maintenance for them, that is, for the forces by land, and for the navy by sea, and all their arrears of both, and other contingencies of the government.

3. To the appointing a council of state, with authority to settle the civil government and judicatories in Scotland and Ireland, and to take care for the issuing of writs for the summoning a parliament of these three nations united, to meet at Westminster, the 20th day of April next, with such qualifications as may secure the public cause we are all engaged in, and according to such distributions as were used in the year 1654; which parliament, so called, may meet and act in freedom, for the more full establishing of this commonwealth, without a king, single person, or house of lords.

4. To a legal dissolution of this parliament to make way for succession of parliaments.

And, in order to these good ends, the guards will not only willingly admit you, but faithfully, both myself and every the officers under my command, and (I believe) the officers and soldiers of the three nations, will spend their blood for you and successive parliaments.

If your conjunction be directed to this end, you may part honourably, having made a fair step to the settlement of these nations, by making a way for successive parliaments.

But, I must needs say, that if any different councils should be taken (which I have no reason to fear,) these nations would presently be thrown back into force and violence, and all hopes of this much desired establishment buried in disorder, which the Lord, in his great mercy, I hope, will prevent. And so God speed you well together, and unite your hearts for the preservation of peace and settlement of these nations, to his own glory and yours, and all our comforts.

England anatomized, her Disease discovered, and the Remedy prescribed, in a Speech by a Member of the (so called) Parliament.

This is the speech of a strenuous royalist, a party which now began to be heard with great favour both within the parliament and without doors. Neither was the orator singular in challenging the legality of the parliament, which was constitutionally dissolved by the death of Charles I. That these topics were openly and keenly discussed in the house so soon as ever it was open to the secluded members, is evident from the following account of their debates:—

"The officers and rumpers thus pushing together, struck a great terror amongst some, and very many expected the sudden dissolution of the house; but Prynn feared them not, which appeared by a very high speech of an hour long upon the bill for the dissolution of this, and for the calling of a parliament. He said the parliament, in his judgment, was dissolved upon the death of the king; but if not, yet they were but a part of the house of commons, and could do nothing in either without the consent of the king and house of lords. He told them, that he and some other lawyers there present drew up the bill against my Lord of Canterbury, for but endeavouring the subversion of the laws, which cost him his life; but in this bill they would totally subvert and destroy the whole fundamentals of all laws and government, &c., and this was the sum of his speech. Mr Edward Stephens seconded him; and Mr Annesly said he could say nothing to contradict what they had spoken, only the ship of the commonwealth being at this time ready to sink, they ought to steer such a course as necessity required to preserve her, although it were not the right nor legal way. This was the second time this week that blind Mr Stephens told them there was no way left for saving these dying kingdoms but calling home the king."—CLARENDON'S *State Papers, III.* 695.

Mr Speaker,

I AM not (I fear) the only person that comes hither hopeless of doing any other good (or good any other way) than by opposing ill, and endeavouring to hinder the designs of those who have brought the lives, liberties, and estates of the people of three nations to have no other support than a government without any basis or foundation. Although, I hope, we have not any of us so naturalized ourselves in the devil's dominions, by our habitual crimes, as not to return to the light of reason. Sir, I should willingly be silent, could the voice and cries, complaints and groans of the many thousands in these nations (that have felt and feel the weight of the oppressors) be heard; but whilst they are not heard, or not regarded, and others (as unconcerned for them, and too much for themselves) pursue not the trust reposed at their elections to sit here, *Nolo meam perdere*, I will not, must not, dare not, stifle my reason, barter my conscience, nor lose any opportunity of declaring what I am, and think others should be; and when religion and law, the two pillars of a commonwealth, have Samson's shoulders (the power of the sword) set to pull them down, sit as a calm spectator. You know well, sir, that it is the part of such as are called to consult the concernments of the republic; *semper vigilare et populorum suscipere curam*, according to that encomium of Hector by Livy, *Nocturnu vigilans et reipub. providens, &c.* But he that sleeping doth nothing, is more commendable (or rather less culpable) than he that waking

doth amiss. Give me therefore liberty, in discharge of myself, and as concerned for others, to be your remembrancer of the occasion and business for which we that now sit (and others that, for aught I know, have as much right as ourselves to sit here) were at first convented; and if it appear (as questionless 'tis too obvius) that we have degenerated or deviated, gone contrary to, or, at least, walked out of the good roadway to the peace, security, and advantage of the three nations, I am unwilling to believe that any man (out of a supposition that it is too late) will yet longer defer to return, and experience to himself that *Nihil est commodius vel tutius via Regia.* Mr Speaker, I shall not so much as question whether those sitting here are, or are not, a parliament; but sure I am, that many useful members (if it were such) are wanting to compleat this body, and as sure that it were safest and best to join the head to the members. The constitution of parliaments was to consult and advise with the king for the government of his subjects: to that purpose we are called hither; and how far we have prosecuted that all Europe, yea, the whole world, is made judge. Let us make some retrospection, and take a short survey of the transactions by and amongst us since our first meeting. We sat not long before our inconsiderate folly and arrogancy gave the king just cause to absent, and to decline our actings. It did not then, (to some) but hath since (to all) appeared, that there were two great designs of two sorts of persons sitting in the house; one of which (as in charity I do believe of many that were then members) was, to purge the council of the king, and to reclaim the insolence and over-haughtiness of the bishops and clergy. The other, that which hath been since fatally effected, the destruction of them all. How to distinguish these persons yet I know not, there being many members (doubtless) still in being (and some, I hope, sitting here) that were then, and yet continue, hearty lovers of their king and country. But all, or most of us, without distinction, are too guilty; some by acting, others by cowardly suffering that dismal tragedy to be acted. I need not prompt your intellects in the nature of those horrid crimes we all have cause to mourn for. I fear too many understood too well, and acted deliberately and resolvedly what was intended, to attain to what they proposed. The sum of all is plain, that out of pretensions to zeal for God, love to religion, allegiance and duty to our king, and care for our country, we caused so many thousands to be murdered, so many families to be ruined, the king (whom we promised and protested we would make a glorious prince) to be betrayed and beheaded, his queen banished, his royal children exposed to the mercy of strangers, religion discountenanced, the church defaced, the laws violated, men's persons imprisoned, their estates confiscate and sold, and all this to serve our own base ends, to enrich ourselves, and to advance libertinism, anabaptism, quakism, and papism. Mr Speaker, I wish these were not undeniable truths, but such we all know they are: and yet such as some, notwithstanding, can add to their confidence in committing the impudence of justifying and defending them, asserting their right and authority by their power and violence, though it be as ridiculous to wise men to maintain an authority in the subject of dethroning and deposing their sovereign, as 'tis prophane and damnable to intrench upon the prerogative of heaven. And if the king be *sicut vicarius dei, et minister in terra*, how dare any but the great emperor and deputer of that viceroy undertake or design his removal? It was, sir, no doubt, just cause of sadness upon the spirits of all honest persons that had been too eminent in the prosecution of what received so ill success, to have that little power or possibility they had of retrieving what, before the murder of our late king, seemed possible to be recovered, wrested from them by the force and violence of the then and now pretenders to reformation, having no other warrant than their rebellious swords, which hath been the only corrosive they have used, like the unskilful physician, *omnium oculos sanare.* And when afterwards some were left sitting that were seriously sensible of their miscarriages, and endeavoured to evidence their remorse by resetting and reducing what

they found wholly out of frame, then for some few self-interested, irreligious, sacrilegious persons, by meer supremacy of power, to inforce their dissolution, and give way to the succession of corrupt, anabaptistical, jesuitical sect of people, to introduce an absolute arbitrary government, without rule or law, save only that of the wills of the legislators, that altered as their occasions and advantages prompted. What must it then be to us, if there be any here (as God forbid the contrary) that dare be honest, to see the tragedy continued, acting and acted for so many years together; and when we now pretend an authority, and have thereby opportunity to become men again, (having hitherto appeared to the universal spectators as beasts, wolves, tygers, and a mere antropophagi, devouring, and causing one another to be devoured,) and to demonstrate how fully sensible we are of our fatal and damnable errors, to find the people ready to be entangled in another labyrinth, out of which, 'tis evident to all rational capacities, there is no clue to conduct us but that thread of government which hath been rashly cut in sunder. Mr Speaker, I must not waste your time, nor need not (I think) speak much of this subject, all of us having too great testimony in ourselves of the sad truths I mention. But, sir, I beseech you let us not, amidst our ills, be so desperate as to believe ourselves altogether unsafe, without attempting greater. No, let us rather take up the *nunquam sera*, and, whilst some possibility remains of such a compensatory restitution as may render us capable of mercy, do something may procure it. I cannot boast the art whereto some here pretend, of preaching, although I may more justly now assert a legal call to preach repentance (evidencing my own by a free confession) than they to ascend the pulpit, and become umpires of scripture without other warrant than what they collect by abuse of that part on't which teacheth them to provide for those of their own household, which they have done so successfully that they have inverted the text, and are worse than infidels. But, Mr Speaker, I shall beg your consideration only of two things; first, of the condition wherein we and the three nations now are; and, if I may speak my own thoughts freely, I hope I shall speak some of yours too in them. 'Tis not unknown, that we were sometimes the wonder of the world, famous for good, though now for evil, and our nation so glorious and happily enriched with fruitfulness, peace, and plenty, and governed by such wholesome laws that those in league with us loved and honoured us, and our enemies envied and admired us: and now we are become so hatefully ridiculous, that we are past the benefit of love or pity, and are, and must be, looked on by all (save such as by-respects seduceth) as a people without a government or governors: And what consequence may be from thence expected, is easily inferred from the fatal dissensions and general misfortunes of those people we read of when there was no king in Israel. I may, sir, challenge the best and most critical etymologist to give the government we now are under (if we have any) a significant christian name. I am confident none, or very few here can think (whatever it may be expedient for us at present to say or declare) that it is a parliamentary government, every man, rational, having so much natural logic about him to evince the contrary. Parliaments were never heard of before kings, nor never made, legally called, or constituted, but by the king. If then there be no king, what follows? *Cessante causa, cessat etiam effectus*

But, suppose an impossibility, that there was a parliament in England which did survive the king that caused it, yet was it not dissolved, and legally too, notwithstanding the act we dote on, that it should not be dissolved but by act of parliament? However others may truly expound that act of force a wrong, we are estopped by our assent to say it was illegal. Was the standing at the parliament-house door, before the late king's death, and with violence denying entrance to men duly chosen by their country, imprisoning their persons, and appointing a certain number of their own to sit, and directing them to enact what they had designed, and nothing else, was that lawful? Were those persons then left a complete parliament? and were the rest law-

fully secluded? And is it not as lawful for the same persons, by the same power, when those sitting begun (or were feared) to be too honest for their purposes, utterly to annihilate and dissolve them? I beseech you, sir, let us not befool ourselves into an opinion of cheating the eyes of the world with a mask that every one may see through; but, finding now our constitution and the state of our maladies, let our next consideration be, how, with the skilful physician, to restore our own and the people's health, so manifestly impaired, and become almost incurable. To which purpose, sir, it will not be amiss to consult, whether many, yea, most (now) that undertake to prescribe remedies, are fit persons to administer this kind of physic. It is a rule more consonant to reason, in all trials at law or equity, that persons concerned in any cause depending shall not have power to assert, by their own testimony, their right or interest, much less to adjudge their own properties: And, how much more unreasonable and unjust is it that those persons who are become purchasers, and possessed of the estates and inheritances of the person whose title, upon no other ground, is oppugned, to be judges of his right and interest, and to give laws by no other authority than what is founded upon rebellion and treasons? And what justice can be expected from men that have no rule but their carnal and diabolical principles to guide their partial agitations to their own present advantages?

Mr Speaker, I could wish that more of us than I fear there are were of Menander's judgment, and could be persuaded that *Honestius et tutius est pauperem esse quàm injustè divitem;* and that (sure) would deter us from adventuring upon temporal gain by an eternal loss, and from digging into the mines of other men's treasure by murders, thefts, rapines, treasons, and rebellions, which must inevitably determine in our own and the people's destruction. Let us cast our thoughts a little upon the fate of Ziba, Architophel, Absalon, Adonijah, Adoram, Judas, and others amongst the many traitors in holy writ; of Perseus, Gracchus, Catiline, Decius Brutus, Trebonius, Milo, Cæpio, Marcus, Lollius, Bessus, and others in history abroad; and Straw, Cade, Tiler, Cromwell, and others at home: and let us not dare to pursue their hellish stratagems, unless we would willingly suffer the same destiny. We have, sir, by sad experience, at too dear a rate, bought and learned the knowledge of our errors, and how unsuitable the government we pretend to is unto the constitution of these nations, having introduced nothing but confusion, and opened the gap to all licentiousness, confirming that for truth which others heretofore have found, that *Multos imperitare malum.*

Sir, I shall instantly make an end (for this time) of speaking, and heartily desire we all would now begin some seasonable acting; and by way of prevention (lest too soon it become too late to do what now we may, and that be forced from us which now, by making a virtue of necessity incumbent on us, we may with advantage offer) speedily lay by our private interests, and re-assume the public spirits befitting us; recall our king, re-settle the government under him, bear that *durus sermo*, freely to surrender what any of us have detained from him, and join together with him in a firm establishment of the church and state, law and religion, that the land may once more flourish, and the honour, plenty, and prosperity of the people be again revived: And that we (now) should be persuaded thus to do, I find no reason to despair, having such violent inducements, by the opportunities abroad and at home now tendered us. The sickly reign of treason, in all probability, (whether we will or not,) coming near its period, can we, Mr Speaker, be so sottish, or bewitched in our security so much, as to believe our scarlet sins have not ere this reached heaven, and that the great Avenger of blood will not soon overtake us, unless we fly to the sanctuary of penitential expiation? No, sir, be assured if men concerned should cease to act their duties, Heaven itself, by some miracle, would create a way to such an eminent justice. It is for want of this the nations mourn; for this the silent sighs of the immured prisoners; the longing wishes of our unjustly-banished countrymen; the afflicted mothers lamentations

for their murdered sons; the pitied wants of the innocent unsuspecting infants of their undone parents do invoke Heaven. In fine, the voice of God commands, and all good men desire it; let none therefore dare to contradict it.

A Letter from General Monck to King Charls, Son of the late King Charls of England, deceased; together with King Charls's Answer thereunto. Printed 1660.

Notwithstanding the authenticity given to these letters by their being published immediately after the Restoration, the date assigned to Monk's being so early as 30th December, 1659, before he marched from Scotland, is, to say the least, extremely staggering. It must be observed, that, through the influence which Sir John Greenville possessed over the mind of the general, Charles early conceived hopes of gaining him over, and made him advances in a letter, which he inclosed him in another to Greenville, and of which the tenor is remarkable.

" *To Sir John Greenvile.*

" Sir,

" I am confident that George Monk can have no malice in his heart against me which I cannot easily pardon; and it is in his power to do me so great a service that I cannot easily reward, but I will do all I can. And I do authorize you to treat with him, and not only to assure him of my kindness, but that I will very liberally reward him with such an estate in land, and such a title of honour, as himself shall desire: and whatsoever you shall promise to him on my behalf, or whatever he or you, by his advice, shall promise to any of his officers or the army under his command, (which command he shall still keep,) I will make good and perform on the word of a king.

" Your affectionate friend,

July 21, 1659. " CHARLES R."

" Sir,

" I cannot think you wish me ill, for you have no reason so to do; and the good I expect from you will bring so great a benefit to your country and to yourself, that I cannot think you will decline my interest. The person who gives or sends this to you hath authority to say so much from me; and if you once resolve to take my interest to heart, I will leave the way and manner of declaring it entirely to your own judgment, and will comply with the advice which you shall give me. The rest I refer to the person who conveys this to you; and it is in your power to make me as kind to you as you can desire, and to have me always

" Your affectionate friend,

July 21, 1659. " CHARLES R."

It is also certain that the general's youngest brother, a clergyman, who had maintained a correspondence with the royalists, did, at the request of Sir John Greenville, who had recently presented him with a living, undertake a journey to Scotland upon Cromwell's death, for the purpose of sounding his brother's inclination towards the royal cause He was at first well received, but upon intimating his errand, General Monk dismissed him, with an advice to come to him no more with such propositions.

It is therefore plain, that while Monk continued in Scotland, the king received no answer to the various advances which were made to the general; and during the whole of Monk's march southward, the reserved silence which he affected, either to mask the nature of his design, or to retain the power of playing the part which should best suit his own interest, rendered his assistance rather wished for than hoped or expected by the cavaliers. It is no doubt evident that,

whatever was his purpose, he did well to disguise it until he obtained possession of the metropolis; for a declaration in favour of the royal cause would have united against him all those parties which were kept in suspense by the hopes founded on his apparent indecision. But still his real intentions, supposing the following letter to bear a genuine date, must have been known to the king and his counsellors, who therefore could have no room for the repeatedly expressed anxiety respecting his real designs which occupies all the correspondence between Charles, Clarendon, and their English correspondents at this period. "I can say little more of him," says Lord Mordaunt, upon 30th January, 1659-60, "but that he is a black Monk, and I cannot see through him." And the "*altum silentium*" of this "cloudy soldier" is their universal subject of anxious complaint.

It seems, therefore, to be tolerably ascertained by the evidence of Clarendon and others, that Monk's first precise declaration in favour of the king was made to Sir John Greenville at London, but there are obvious reasons why both the king and the general might chuse to represent their correspondence as of an earlier commencement, and to such reasons we owe, in all probability, the fabrication of these letters, or, at least, the falsification of the date.

May it please your Majesty,

SEEING it hath pleased God out of his gracious will and pleasure to cause me to cast my eye upon this commonwealth of England, my native country, (and your three kingdoms,) and viewing there, to behold the sad and lamentable condition that now, and for many years past, it hath been intangled in, which, as reason and conscience together persuades me, is occasioned chiefly for want of its ancient and ever customed way of government, (to wit,) a king and parliament, which hath been unsettled altogether amongst us ever since the unhappy death of your majesty's late father our king, by reason thereof our ancient and accustomed wholsome laws, both of church and state, are most strangely torn and massacred; and all through the self-seeking end of some certain persons, which at present, I judge not fit herein to be communicated, who, having gotten the power of the sword in their hands, thought for ever to rule and reign over their opposers, (I think in spite of God or man.) But of late some of those (I hope I may truly bless the name of the Lord for it) who were the chief rulers of those unhappy differences between our king and his poor distracted kingdoms are taken out of this world, insomuch that the power of those remaining is much weakened; but yet they will (I perceive) seek to tread in the self-same steps of them that have gone before them, as seeking only to set up their own interest, although to the utter ruin of the nation; studying how of littleness to become great; hating the name of a king, but would joyfully embrace the power thereof; (yea, I may say, they seek far more power than ever our late king did take upon him,) and all done under the zealous pretence of saintship and religion, the form of manner whereof is plainly manifested by their tolerating and setting up of strange sects of religion, as anabaptists, quakers, and such like, seeking utterly to destroy and pull down our ancient orthodox divines, unless timely prevented. I question not but your majesty is very well knowing of the power which for some few years past I have had in governing the English army here in Scotland, which power, when I had once obtained, I did resolve, as much as in me lay, to keep until a fit time and opportunity should offer itself, that I might employ it for the glory of God and the good of your majesty, whose faithful subject I humbly acknowledge myself to be. Now so it is, may it please your majesty, I plainly seeing, and with a sad heart beholding the threatening hand of the Lord's severe judgments stretched forth against these three kingdoms, which forthwith must, and will inevitably fall heavy upon us, (for aught as can be imagined, to the utter ruin both of king and subjects) unless suddenly prevented by our humble submission to the Lord, and an unfeigned repentance of our former miscarriages. May it also please your majesty to give me leave to acquaint you, that I humbly conceive I had never a better oppor-

tunity of doing my country service, (in freeing them from their Egyptian bondage, as I may term it,) and in restoring the crown to the right owner thereof, which, if possible to be done, shall be done with as much care, safety, and diligence as God shall enable me, and that with as little wrong as may be either to king or subjects; which work, when it is perfected, I hope will tend to the firm settlement of our ancient protestant religion. In tender consideration of all which premisses, I most humbly beg that high favour of your majesty, that you will be graciously pleased to permit me to make these proposals following: First, whether your majesty will be pleased to accept of the real endeavours of me your unworthy subject and servant to be employed in being a means in helping your majesty to a quiet and safe possession of three kingdoms, which have (with violence) been so long time withheld from you? If yea, then will your majesty be pleased to consent to a treaty to be had between your majesty and a free parliament, which shall be lawfully elected, and chosen by the country, whose care, I hope, will be for the chusing of such honest, godly, and religious men as had no hand in the death of our late king, or, since his death, have (by any unlawful means whatsoever) enjoyed any of his lands, tenements, or rents, or the lands, tenements, and rents of the late deans and chapters, or any of your late sequestred subjects, or which, since his death, have appeared violent in their acting against kingship, and consequently against your majesty, our lawful king. Not in the least that I have any malice or evil will against such persons, but for that my conscience tells me, that so long as self-interested persons are suffered to sit in parliament, there is little good to be expected either for king or kingdom; for it is a hard thing for men to act against their own selves, to the loss of their lands and livings, which they suppose they have so honestly gained. If your majesty will be pleased to consent to such a treaty, and that thereupon it may be agreed upon that your majesty shall be restored to your three kingdoms, which I question not but will be the event of such a treaty, then I humbly beg that your majesty would be pleased to think fit to declare what mercy and pity you are pleased shall be shewn to all those that have been the chief of your enemies, (whose blood, in severity of justice, might deservedly be spilt,) upon their humble submission to your majesty, and their promise of future obedience; for I hope you will judge that the only way to join the hearts of the people of your three kingdoms, to pray for your happy success in all things; and not only so, but it will undoubtedly encourage them all to venture their lives against all your opposers, if any shall contest: And also that your majesty would be pleased to declare, out of your gracious goodness, what satisfaction shall be made to the poor common souldiery throughout your three kingdoms who have been forced to take up arms, although against your majesty, for meer necessity to keep them and their families from starving, who indeed are much behind in their pay, which will be utterly lost and undone, unless your majesty take compassion upon them, which, if you are pleased so to do, I question not but you will find as much humility and submission from them as can be expected; and for the future it will engage them to be as ready to serve your majesty as they were to serve your enemies for the time past: and, moreover, I conceive it will be a great incouragement to them to join with me in this design. I shall trouble your majesty with little more at present, but to let you know that my hopes are that you would be pleased to have that confidence in me as not to credit any rumours or reports that may contradict what I have herein proposed; for, as for that, I would have your majesty to be confident that I shall not value neither the ill-will, or yet look upon the favour of any who shall appear in opposition to a thing that I have so really proposed, so long as God and my conscience persuades me that in so doing I shall accomplish a good work both for his glory and my country's good: And yet I think fit to carry as fair a correspondency as I can with those that have taken upon them the authority in England. To that end, I have thoughts of going to London very suddenly, that I may see their

actings, and order things there somewhat for my advantage. I humbly beg your majesty's speedy answer touching these proposals; so, with all submissiveness, I crave your majesty's favour in giving me leave to subscribe myself

Your majesty's for ever faithful
and loyal subject,
GEORGE MONCK.

Edenboroug, Dec. 30, 1659.

King Charles his Answer thereunto.

Worthy Friend,

THIS is to let you understand, that I have received yours of the twentieth of December, the twenty-fifth of the same month. The contents whereof do cause me to judge you deserving of the title that I have given you, and I hope the further events of your intended proceedings may ere long merit a greater; and forasmuch as I conceive it necessary to give you the speedy result of my mind in answer thereunto, I think fit to let you know in the first place, that I freely pardon you for all offences or crimes whatsoever committed (or which you know yourself guilty of) against my late dear father and myself; I beseech the Lord to forgive you likewise; I must confess I am not ignorant of the power that you for some years past have had over the English army in Scotland; and I do likewise bless God, who hath now opened your eyes to behold the miseries of my three poor distressed kingdoms; and also for that he hath made you so far sensible of his heavy judgments (ready to be showered down upon them, by reason of the grievous and lamentable outcrying sins of the people) as to cause you to make so fair and seasonable a profter of the tender of your service, both for the glory of God and the good of me and my people. The Lord open your heart couragiously to go on in the perfecting of so great a work as you have intended to set on foot, you having now so fit an opportunity; and for the answering the proposals therein contained in order as they lie, I do declare that I shall with a willing and joyful heart accept of your faithful and honest endeavours to be employed for the glory of God and the manifest good of me and my subjects: not so much for the profit or worldly advantage that I think to receive thereby, but that which I shall chiefliest rejoice in is only for the glory of God, and the good of my three kingdoms. I mean in freeing them from their slavery, in preserving them from any farther effusion of blood, and for the settling amongst them their ancient way of church and state government, for the advancement of the true protestant religion, and also for the quashing of all heresies, hypocrisies, sects and schisms, that are lately crept into our protestant church, whereby we are become a mere laughing stock to all nations; and, as for my consenting to a treaty to be had between me and a parliament, to be chosen by a free consent of my people, I am sure there is not a thing that I can embrace with a greater joy, and especially if my subjects make choice of persons so qualified as you have mentioned in your letter to me; then of necessity there can nothing but good come of such a treaty. But if otherwise, it may be doubted; but, however, my trust shall be in the Lord; and whereas it was your desire for me to declare what mercy and pity I would should be shewn towards those who are my manifest enemies, in case I should come quietly to be restored to my three kingdoms, I do therefore, for the satisfaction both of you and my subjects, declare the thoughts of my heart touching my said enemies in manner following. That, as for such who shall humbly submit themselves unto me, and expressing their sorrow for all their former actings against me and my late father, and upon promise of their future obedience, I will freely pardon them of their lives; and as for their estates, those who have lawfully purchased any from my

subjects, I will that they enjoy such their estates according to their purchase, they only paying (for the space of five years) the moiety of the profits of such their estates towards satisfaction of the public debts, that my poor subjects may be somewhat eased of their taxes, which have been so heavily imposed upon them for these many years. And as for such who have gotten or purchased by any means whatsoever any of my lands (to wit) any of the king's lands or livings, or the lands and livings of the bishops, late deans and chapters, or of any of my subjects, sequestered or taken from them for their delinquency (so accounted) my will is, that such estates so gotten shall be by them surrendered into the hands and possession of the right owners as formerly, being contented to rest quiet and satisfied with the gain and profit they have received thereby for the time past, and to lose the profit for the time to come, which my conscience tells me is but plain reason; and as for those who shall persist and continue in their rebellion against me, I shall desire that such course may be taken with them as my parliament and council shall think fit, and their estates to be disposed of towards payment of the publick debts which shall be judged necessary and fit to be discharged, which I shall refer to my parliament and council; who I shall humbly desire, and I question not but it will be their care in being sparing in spilling as little blood as may be. And as for the poor common soldiers, they who will submit themselves to me, I freely pardon them; and my will is, that their arrears shall be paid as speedily as conveniently may be, although it be for their service in fighting against me, but I impute all to their necessity: what I have here above declared, I shall labour to make good to the utmost of my power. I shall not, neither do I in the least, question your reality in the faithful performance of what you have declared. God prosper you in all your undertakings therein; and I shall own you in every thing that you shall act for God's glory and the good of my people, which I desire may be done with as much expedition as may be. I render you very many thanks for your love.

C. R.

A seasonable Advertisement to all that desire an happy Settlement, particularly to those of the Royal Party. Being, I. The Extract of a Letter from Breda. And, II. A Letter written upon it to a Friend in the Country.

" We are told by Mr Archdeacon Echard, in his History of England, that Chancellor Hyde had a constant communication with many of the king's party, but with none more cordially and effectually than Dr John Barwick, afterwards Dean of St Paul's, and who had been ejected out of his fellowship in St John's in Cambridge. As, therefore, we can scarce help concluding, that the following extract was writ by the said chancellor, it may be fairly presumed, from the scope and tendency of it, that the doctor was the person to whom it was addressed: But whoever were the correspondents, the papers themselves are not only a matter of curiosity, but of use; as, they serve to shew what a spirit of meekness the court affected to put on, while the great affair of the Restoration was depending, and how much the wisest men among the clergy then thought it for their interest, not to be so transported with their loyalty as to forget their Christianity."

The issue of this sober and moderate council was the measure so justly extolled by Lord Clarendon, who describes with his usual accuracy the state of parties at this critical period:—"There happened at the same time a concurrence, which much facilitated the great work in hand. For since a great obstruction that hindered the universal consent to call in the king was the conscience of the personal injuries, incivilities, reproachful and barbarous usage which all the royal party had sustained, and the apprehension that their animosities were so great that, notwithstanding all acts of pardon and indemnity granted by the king, all opportunities would be embraced for secret revenge, and that they who had been kept under and oppressed for near twenty years, would for the future use the power they could not be without upon the king's restoration, with extreme licence and insolence; to obviate this too reasonable imagination, some discreet persons of the king's party caused a declaration to be prepared; in which (after their acknowledgements and thanks to the general, for having next under the divine providence so far conducted these nations towards a happy recovery of their laws and ancient government,) they sincerely professed that they reflected on their past sufferings as from the hand of God; and therefore did not cherish any violent thoughts or inclinations against any persons whatsoever who had been any way instrumental in them; and that, if the indiscretion of any particular persons should transport them to expressions contrary to this their general sense, they utterly disclaimed them. They farther promised by their quiet and peaceable behaviour to testify their submission to the council of state, in expectation of the future parliament; on whose wisdom they trusted God would give such a blessing as might produce a perfect settlement both in church and state. And, lastly, they declared that, as the general had not chosen the sandy foundations of self-government, but the firm rock of national interest, whereon to frame a settlement, so it was their hope and prayer, that, when the building should come to be raised, it might not, like Rome, have the beginning in the blood of brethren, nor, like Babel, be interrupted by confusion of tongues, but that all might speak one language and be of one name; that all mention of parties and factions and all rancor and animosities may be thrown in and buried like rubbish under the foundation.

"These professions, or to the same purpose, under the title of a declaration of the nobility and gentry and clergy, that had served the late king or his present majesty, or adhered to the royal party, in such a city or county, which was named, were signed by all the considerable persons therein; as this that we have here mentioned was subscribed by great numbers in and about the cities of London and Westminster, and so were several others from other places; and then all printed with their names, and published to the view of the world; which were received with great joy, and did much allay those jealousies which obstructed the confidence that was necessary to establish a good understanding among them."—CLARENDON'S *History, III.* 587.

The Extract.

Sir,

WHEN Mr W. left us, I had so much upon my hands to dispatch, that I obliged him to make my excuse to you for not writing, which he promised to do very confidently; and next to not writing at all, the dispatch I shall now send you will need a new excuse. For the truth is, I am now almost in as much haste as when he left me. The king came hither but on Wednesday, and I but last night, so that having but two or three hours to make use of a safe messenger, I can hardly find the letters I am to answer.

I am heartily glad that Mr D. is with you, whom you will find a very worthy and discreet person, and fit to join with you in allaying the too much heat and distemper which some that pretend to be our friends, are in this present conjuncture very much accused of: insomuch as this very last post hath brought over three or four complaints to the king of the very unskilful passion and distemper of some of your divines in their late sermons, with which they say both the general and council of state are highly offended, as truly they have great reason to be, if (as they report) there have been menaces and threats used against those who are in power, and seem very willing and de-

sirous to improve all opportunities towards a happy settlement.[1] One D. Gr. is mentioned for having preached a sermon in that kind, and since printed it, and dedicated it to the general, who, they say, is extremely offended at it. Other persons are likewise named as guilty of the same indiscretions, who are so well known to me that I do not believe it. It is too much that the least occasion of offence is given by any, especially those that should be the lights and guides to others, and teach them, by their examples as well as doctrine, to make better use of their late sufferings than to retain any bitterness or uncharitableness in their hearts. The king hath been very earnestly desired, by some of his friends there, to send some such order and reprehension under his own hand, as may restrain those excesses, and prevent the like hereafter, in all that profess devotion to his service, both of the laity and clergy; but it is not easy to do it in the way that is prescribed, and the informations being several, and not very coherent, we cannot possibly believe they are exact in all particulars. However, the king is really troubled at it, and extremely apprehensive of the inconvenience and mischief, both to the church and himself, from offences of that kind; and so are all that are about him, notwithstanding (you tell me) the contrary opinion is so much endeavoured by the enemies of peace to be infused into the hearts of the credulous people, of which I hope we shall in time convince them by our actions. And he hath commanded me not only to desire you and Mr D. to use your credit and persuasions with those that are thus complained of, and to let them know from his majesty what sense he hath of it, but, if you find occasion, that you also desire B. E. and B. S. to interpose their authority to inform or reprove them into such a temper as may qualify them to make a better judgment of the season, and not to give the least occasion of awakening those jealousies and apprehensions, which all good and prudent men should by all means endeavour to extinguish; and the rather, because it is the interest of some men to make a mountain of every mole-hill of this kind which they can possibly meet with. And truly, I hope, that if these occasions of offence be but carefully avoided, our public affairs, both in relation to the church and state, are in a better tendency towards a happy settlement, than these indiscreet (though never so well meaning) men imagine; who, I presume, will be more troubled that the church should undergo a new suffering by their imprudence, than for all they have suffered hitherto in themselves. I should not have enlarged thus far upon this particular (being thus much straitened in time) but only that I have special command for it: nor had that command been laid upon me, if his majesty had not had very particular information and complaint in this point. And I am sure this advertisement cannot be without some fruit, though in truth there should be no just grounds for the complaint. I wish you all happiness, and am very heartily,

Sir,

Breda, April $\frac{6}{16}$, 1660. Your most affectionate servant.

The Letter.

Sir,

If the inland-post had but fallen out as pat for conveying this inclosed extract to you, as the passage by sea was favourable to bring the original to my hand, it might have been sent a day sooner than it is; though when you compare the date, you will wonder it should be so nimble as it is. But the subject is of that nature, as required

[1] It must be remembered that Monk was hitherto, in profession at least, a presbyterian, and, with the rest of his party, must be supposed to have looked with suspicion on the exuberant joy of the Church of England clergy upon the expected Restoration.

not only communication to friends, but haste; and when I have once lodged this in the post-office, I have discharged myself of both as well as I can, in reference to you. I am very sorry any of us should need a monitor, (after God's hand has been so long upon us) to teach us that vital act of Christianity, charity, which suffereth long, and is kind, envieth not, (ὐ περπερεύεται) does nothing (*perperam*, or) rashly, thinketh no evil, beareth all things, believeth all things, hopeth all things, endureth all things. It is visible enough, that the want of this great virtue was the original of our sufferings; and till it be reduced into the hearts of all persons, of what party soever, (the patients as well as the agents) we cannot hope to see that perfect and durable composure and settlement of these unhappy differences, which all men now so earnestly desire, excepting those only that desire to make their private gain out of the public loss. You see how perfectly this *formalis ratio* of Christianity is planted, how exactly this image of Christ is formed in the heart of him whom we ought to look upon as his vicegerent over us: And if we had no more but his example to teach us the same lesson, it is such a topic as was wont to be argumentative beyond all exception, even among the very heathens, when *Regis ad exemplum*, &c. became, in a manner, a proverbial aphorism. And surely I cannot now see how any man can pretend to be of his party, that will not be of his affections; considering that, beside this, nothing can now denote a man of his party, since of the two old characteristical notes, doing and suffering, the one is at an end, and the other very near it, if our sins or follies do not continue us in it. But, beside this, when we have so many and strong motives to what is our duty pressed upon us by him whose commands ought to be sacred to us, and signified by so good an hand as you know this was, I hope none will be so foolish as not to yield a free and full obedience to what is here enjoined, and to bless God for his good hand upon the heart of him from whom it comes, who is so careful of us all, while some are so careless of themselves. I hope you will excuse that little passion wherein this is written, which has no other motive than an earnest desire of the public good of this church and kingdom. I confess it hath transported me to use these superfluous arguments to you, which I might have received much improved from you, if I had not prevented you in them: But in that the loss is mine, and therefore I hope it will expiate my fault herein, without begging your pardon for it. All that I desire of you is, to peruse over the inclosed extract, and to make what use of it among your neighbours and acquaintance your own piety and prudence will think necessary or convenient. I must not conceal from you, that I have already been advised by friends (whose wisdom I much reverence) to print it: but you see, the person that writes it doubts whether the information was exactly true (which I hope he has good reason to do, seeing I never heard of any menaces or threats used by any); and, besides that, it is too palpable a transgression of the rules of corresponding, to print another man's letter (though the person were of much meaner quality than this is) without his consent; though I confess I should otherwise have thought it not unnecessary. Instead of that, you see I have made use of it this way, though more laborious to me; and the rather, that I may take an occasion with it to hint unto you (as I do to my other friends) how convenient it is thought to be by our friends here, for the nobility and chief gentry of your county, who have heretofore been of the king's party, to make some public declaration of their willingness to forget what is past, and lay aside all animosities for the future, and freely acquiesce in what the parliament shall do, in order to a happy settlement; which healing method is already under consideration (if not perfectly concluded upon) by the county of Somerset, and I believe will be made use of in many other places. I shall willingly confess my opinion to agree with yours, if you shall think it convenient that the suffering clergy should go before the rest in such a christian duty, either by exhortation or example. But the truth is, they are so far dispersed, as I cannot conceive how they can

do it by example: and I can assure you, those that are here, are not wanting to use their exhortations to it, both in private persuasions and letters to their friends; and those that have the use of the pulpit, preach that doctrine in the general, whereof this is a particular branch: and I hope those in the country will do the like. That as most of them have given a good example of patience in their sufferings, so they may do the like in charity in their future actions, and thereby declare to all the world, how perfectly they are the disciples of our great Master, and how really the ministers of the gospel of peace.

I beseech you pardon this impertinent tediousness, which can signify nothing to you, but only that my heart is full; and yet I find a continual stream of the same thoughts and affections flowing in from all our friends here, which makes them vent themselves by this exundation. But, however, I shall here shut the sluice, with this assurance, that I am,

Sir,

London, April 12, 1660. Your most affectionate servant

Out of the Collections of the Duke of Chandos.

A Narrative of some Passages in, or relating to, the Long Parliament.

Eccles. x. 20.—Curse not the King, no not in thy thought.
1 Sam. xv. 23.—Rebellion is as the sin of witchcraft.

By a Person of Honour. 1670. 8vo.

"This narrative contains an epitome of the rise and progress of the civil war to the time when the house was garbled by the army; together with some anecdotes which are not to be met with in any other tract. The author of it was the Lord North, though his lordship has not thought fit to acknowledge it in his title-page, and it was made public by himself, as appears by the preface, in the year 1670; possibly with an eye to the service of the court; which, beginning to grow unpopular, was not without some dread that the same abuse of power might beget the same abuse of liberty; and yet rather chose to run the risque of it's doing so, than to remove every pretence of clamour, by altering their pursuit."

The author was Dudley, fourth Lord North, who was made a Knight of the Bath at the creation of Charles Prince of Wales, and sat in many parliaments, till secluded by the prevailing party in that which condemned the king. From the long life of his father he did not succeed to the barony till he was himself advanced in years: this was in 1666, and he died in 1677.—*See Lord Orford's Noble Authors.*

To the Reader.

Before thou makest an entry upon the following discourse, it is fit thou shouldst be acquainted with the occasion of its birth. A near relation of mine was the cause of

my setting pen to paper, upon a conceit that, being a member of the Long Parliament, my observation might have fixed itself upon some particulars omitted by others, which particulars he was unwilling should be lost. And now, since this issue of my brain is come into the world, with many characters of truth upon its body, some friends, looking upon it with too favourable an eye, will not consent that it should be stifled by a confinement to one family or place: but, on the other side, lest travelling abroad it may contract some disadvantage by too much expectation, (termed by Sir Philip Sidney "that friendly foe") I myself, having assented to a publication, deem it necessary so far to pass my own censure upon it, as that more may not be looked for than it can yield; and not only so, but otherwise to make some little apology for the contents of it. I may profess myself to have been somewhat perplexed in finding a proper name for that which I have written. It containeth matters historical, and yet is no history; for it consisteth of particulars without any exact order. It compriseth the business of a limited number of years; and yet I cannot give it the title of annals, because things transacted in several years are set together. It consisteth of abrupt parcels, and yet maketh up but one continued relation. Truth is, it wanteth method, containing nothing that is perfect; and if it were a perfect nothing, perhaps it would be much better, for then it would give no offence to any; whereas now my old fellow-members and comrades of that parliament will say, I am injurious to them, in relating only those proceedings which were not justifiable, and omitting the good things done by them; and will also tax me for partiality, in not speaking at all of the provocations and wrongs offered and done by their opposers. To this I answer, that from the beginning the war (which, with its preparatives, gives limits to our business,) I know nothing publicly done that was either good or justifiable, saving only an outward profession of personal reformation, which, unless it carried with it a real intention, would have been mentioned with as little advantage, as had the outward pretended public reformation, which deserved rather blame than praise. The intention of many of us was also very good, being desirous of peace and of a good agreement between prince and people: but how could this appear without doors, till the army had kicked us out of the house? And as for particular miscarriages of the king's party, I was not resident in his majesty's quarters, and therefore my relations must have been subject to much incertainty. But that which must satisfy me is this, that those members, who were enemies to the war, will find reason in that which I say; and as for those salamanders, who could live only in the fire, I regard not their censure. Perhaps I may also be condemned by the generality as imprudent, in setting an evil character upon the whole carriage of that parliament, when I myself could not but be an actor in some part of that evil. Here I am put to a double apology for myself; first, as a subject, and then as a writer. As to the first, I cannot excuse myself otherwise, than by the sincerity of my mind and intentions. I may freely profess, that I never had the least disloyal thought in relation to my prince, and my endeavours always tended to a reconciliation of the business, with a production of peace; and if I were at any time enforced (for I never did it willingly) to act in the way of opposition contributory to the war, it was with hope, that at last there would be a happy agreement. I must thus far confess my error, that I too much feared the ill consequences of a parliament's being run down by force, and perhaps so great a distrust in the clemency of his late majesty cannot be justified; yet I may hope that such a tenderness upon mistake may be esteemed venial in comparison of greater offences, which are included in our present sovereign's gracious pardon: and as for the imputation of imprudence, in stigmatizing myself by too far publishing the miscarriages of that body, whereof I was a member, I conceive that I cannot better shew myself worthy to be included in that his majesty's general pardon, than by declaring a detestation of them, and by setting them out in their right colours; so far am I from condemning myself in that particular. As to the whole narrative, considering that I have

trusted only to my own private memory and notes, I will not say but that there may be an omission of some particulars, as important as those inserted; but I am confident, that, for the substantial truth of that which I have delivered, there can be no just exception to it, and so I must refer all to thy censure.

Farewel.

Cardinal de Richelieu, that great favourite of France, (perhaps to insinuate into his master's thoughts the high importance of naval power,) caused a ship of extraordinary bulk to be made, which his malevolents affirmed to be an emblem of himself: for as that ship could not move at sea but in a storm, so (said they) the cardinal could not live in a quiet and undisturbed state. This was said of that great minister of state, because he held his prince engaged in a continual foreign war. And if such a war were imputed to him, as mischievous to that kingdom, what shall we think of those who, in this our island, so troubled the waters at home (to fish out a greatness for themselves) as to sever the head from its body, and, by unsinewing the government, to batter down all the pillars that supported it, and so to bring an absolute anarchy and confusion upon the whole nation? Surely the depth of this offence is not to be fathomed; yet thus much is ordinarily said in their defence, that they were so far from designing anarchy, as they intended only reformation, and the setting up of a much more accomplished government. It is easy to be believed that confusion was not their ultimate end; and there needeth no other proof of it than the actings of Leviathan Cromwell, who made his own personal greatness the foundation of something in the way of new government. And the intent of reformation, or of a new model, can be no justification of any particular rebellion, since the same ends are pretended to by all persons that at any time raise a power in opposition to the present governors, as these very persons found by experience during their short rule. Aristotle and his adherents are much cried down by our modern natural philosophers for making privation a principle; but certainly these men made it the most considerable principle in their politics, for they could not effect any thing fully but demolition and destruction. They never set up any thing in the way of government that was new, but it was in a short time disliked and overthrown: and indeed it could not be otherwise, since the greedy monster of their faction could not subsist but by devouring whatsoever was most precious in the land, and since the opportunity to do so could not be had but by frequent changes of government, so the rapacity of this brood of harpies caused the destruction of so many fair buildings, whereof the raising had been so costly; the suppression of bishops with their hierarchy, and the sale of their lands, and (I may even say) felling of the royal oak itself, with prostitution of the public revenue and ornaments to sale; and the same cause would infallibly have produced the ruin of both universities, with demolition of the colleges, and alienation of their lands, and many other destructions of that nature, so as to have deprived the nation of all excellence in the way of beauty and splendor. That this was done, the power once raised, is not strange; but how so great a part of the people (nay, even of that remainder of parliament) should be drawn to consent to it carrieth much wonder; and certainly there was much art used to win their consent to so great a devastation. The historical part of this business being too heavy a burden for my shoulders, I shall only (for the satisfaction of some friends) set down in writing my observations of the carriage of that business at Westminster, where I was then resident as a member of the house of commons, wherein perhaps there may be found some particulars not so obvious to others, and in that respect likely to be omitted.

In matters political it is seldom found that events depend upon causes necessarily producing them, and when they do, there must be some great imperfection in the

original constitution of a state; as writers in politics affirm of civil war arising in an oligarchy, by reason of many dependencies upon great persons possessed of the sovereign power, whose private and differing interests distract the forces of such commonwealths: but this cannot be our case, who live in an extraordinary well-tempered monarchy, where the perfect constitution is sufficiently proved by an efflux of very much time, without the least appearance of any visible defect. We must therefore search out other causes. It cannot be doubted that there is a Divine Providence which ordereth and governeth all things; but as this is above us, and altogether out of our sight, so we must rather submit chearfully than make any inquisition about it. As for second causes in disturbance of state, none can justify an armed opposition by subjects against their sovereign; and, unless there be some plausible title to the supreme power, there is seldom any that become considerable but discontents, upon conceit of misgovernment; and, in this case, the justness of discontent is not so dangerous as the generality of it; and, in that respect, designs grounded upon right reason, and with certainty of public advantage, if effected, are yet well laid aside, when liable to a general misconstruction, in the way either of danger or oppression. Never parliament was assembled when the people were in a higher discontent than at this time: such a general diffidence there was, as they thought themselves sure of nothing. The increase of ceremonies had made them fear the approach of a religion hateful to them. The late business of ship-money, together with some other impositions without consent of parliament, caused them to apprehend the loss of property in their estates; and they had little hope of redress by parliament, because his then majesty had been so unhappy as to be put upon a[1] sudden disssolution of all parliaments formerly by him

[1] He had dissolved the last in 1628-9, (for during so long an interval did his majesty chuse to govern without a parliament, and to supply his necessities by those (illegal) impositions so tenderly mentioned by his lordship,) not only suddenly, but violently; and the whole constitution had, in a manner, reeled under the shock. That, therefore, this palliative may not too much soften the features of truth, it may be expedient to add the following brief of that extraordinary event, which is partly extracted from the appendix to the commons-journals, partly from the council-books, and partly from Rushworth's Collections. The king had fatally resolved to levy tonnage and poundage on his people, in virtue of his prerogative, without consent of parliament; (although, when yielded first to our princes in parliament, it is premised, in express words, that the grant was made of good will, and not of duty,) and having in the recess of parliament, anno 1628, caused several persons to be imprisoned, and seized the goods of others, particularly of Mr Rolle, a member, for refusing to pay it, the parliament, when they met January, 1628-9, entered immediately on the consideration of this matter, as a great grievance, and with so much the more heat, because the customers who had made the seizure, when put in mind of the privilege of parliament by Mr Rolle, arrogantly replied, "If all the parliament were concerned in the goods, they would seize them." A committee was appointed to examine into, and make a report of all that had passed. The king justified what he had done in a speech from the throne to both houses, and withal demanded to be authorized by law to levy the same duty for the future. The commons not only denied his right, but questioned the customers for presuming to seize the goods of parliament-men. They answered, "That they conceived there was no privilege of parliament in this case." This redoubled the disgust and indignation of the house; and, while they were debating the matter with great warmth, his majesty, by message, gave them to understand, "That what the customers had done was by his order; and that he would not have his particular interest severed from that of his servants, who acted by his command." This added yet more fuel to the flame. The order of council for levying tonnage and poundage was read, after which a motion was made, seconded, and fiercely debated, "That the seizing the goods of Mr Rolle, a member, was a breach of privilege;" and the speaker, being called upon to put the question, he was pleased to answer, "That he durst not, for that the king had commanded the contrary." This threw the house into a violent ferment, in the midst of which they adjourned: and at their ext meeting, March 2, the flames broke out with more violence than ever. The speaker (Sir John Finch) having taken the chair, and delivered the king's command for adjournment of the house until Tuesday seven-night following, being the 10th of March, (these are the very words made use of in the appendix,) the house made him answer, "That it was not the office of the speaker to deliver any such command unto them, but for the adjournment of the house it did properly belong unto themselves;" and, after they had uttered some things which they thought fit and convenient to be spoken, told the speaker, "That they would satisfy the king." The speaker told them, "He had an express command from his majesty, as soon as he had delivered his message, to rise;" and upon that left the chair, but was by force drawn to it again by Mr Denzil Holles, son to the Earl of Clare, Mr Valentine, and others: and Mr Holles, notwithstanding the endeavour of Sir Thomas Edmonds, Sir Humphry May, and other privy-counsellors, to free the speaker, swore, by God's wounds! he

called. There wanted not persons ill disposed and seditious to trumpet these things in the ears of the generality, whereby they incensed them so far as thereby they found

should sit until they pleased to rise. Here Sir John Elliot began a rhetorical oration, to inveigh against the lord-treasurer, (Weston,) the Bishop of Winchester, (Neale,) &c.; saying "He could prove the lord-treasurer to be the greatest instrument in the innovation of religion, and innovation of our liberty; and offered a remonstrance to the house, wherein he said he could prove him to be the greatest enemy to the commonwealth; saying, that he had traced him in all his actions, and withal, that if ever it were his fortune to meet again in that honourable assembly, he protested, as he was a gentleman, where he now left he would begin again:" and further said, "God knows, I now speak with all duty to the king. It is true, the misfortunes we suffer are many; we know what discoveries have been made; how ariminianism creeps and undermines, and how popery comes upon us. They mask not in strange disguise, but expose themselves to the view of the world. In search whereof we have fixed our eyes not simply on the actors, the jesuits and priests, but on their masters; they that are in authority. Hence it comes that we suffer. The fear of them makes these interruptions: you have some prelates that are the abbettors; that great Bishop of Winchester, we know what he hath done to favour them. This fear extends also to some others, who, I fear, in guilt of conscience of their own desert, do join their power with that of the bishop and the rest, to draw his majesty into a jealousy of the parliament, among whom I shall not fear to name the lord-treasurer, in whose person all evil is contracted. I find him acting and building on those grounds laid by his master, the late Duke of Buckingham, and his spirit is moving for these interruptions, and, from fear, breaks parliaments, least parliaments should break him. I find him the head of all that great party, the papists, jesuits, priests, and all derive from him their shelter and protection."—— Here the minutes that we follow grow unintelligible; and, in order to finish the period thus begun, we must copy the indictment brought by Heath, the king's attorney, against those parliament rioters, where the residue of it is set down in the following words: "The interest, which is pretended to be the king's, is but the interest of that person (the treasurer) to undermine the policy of this government, and thereby to weaken the kingdom, while he invited strangers to come in, to drive our trade, or at least our merchants to trade in strangers bottoms, which is as dangerous. Therefore it is fit to be declared by us, that all that we suffer is the effect of his councils, to the ruin of the government of the state; and to make a protestation against all those men, whether great or subordinate, that they shall be declared as capital enemies," &c.

This protestation, or remonstrance, Sir John, who brought it ready drawn up, had before thrown down upon the floor. Mr Strode, in contending to have it read, was pleased to say, "That we may not be turned off like scattered sheep, and sent home as we were last sessions, with a scorn put upon us in print," and moved, "that all who were for the reading should stand up," which they did. Mr Holles then drew up Elliot's protestation into the following heads, viz.

I. Whosoever shall bring in innovation of religion, or, by favour or countenance, seem to extend or introduce popery or arminianism, or other opinions disagreeing from the true and orthodox church, shall be reputed a capital enemy to this kingdom and commonwealth.

II. Whosoever shall counsel or advise the taking and levying of the subsidies of tonnage and poundage, not being granted by parliament, or shall be an actor or instrument therein, shall be likewise reputed an innovator in the government, and a capital enemy to the kingdom and commonwealth.

III. If any merchant or person whatsoever shall voluntarily yield, or pay the said subsidies of tonnage and poundage, not being granted by parliament, he shall likewise be reputed a betrayer of the liberties of England, and an enemy to the same.—RUSHWORTH, *vol. I. page* 660.

And Mr Selden (according to our manuscript, which we are now to resume) spoke as follows:

"Mr Speaker, you say you dare not put the question which we command you: if you will not put it, we must sit still, and thus we shall never be able to do any thing; they which come after you may say they have the king's command not to do it. We sit here by command of the king under the great seal of England: and for you, Mr Speaker, you are, by his majesty in person, (sitting on his throne and chair of estate before both houses of parliament,) appointed our speaker; and yet now, under a pretence of a message delivered unto you in private, you refuse to do the office and service of a speaker."

Yet, notwithstanding the speaker's extremity of weeping, and his supplicating oration, quaintly eloquent, Sir Peter Hayman, a gentleman of his own country, bitterly inveighed against him; told him, "He was sorry he was a Kentish man, that he was a disgrace to his country, a blot to a noble family, and that when all the inconveniences that should follow, yea, their destruction, should be derived to posterity, as the issue of his baseness, he should be remembered with scorn and disdain: and that he, for his part, (since he would not be persuaded to do his duty,) thought it fit he should be called to the bar, and a new speaker chosen in the mean time, since neither advice nor threats would prevail."

The king, hearing that the house continued to sit, (notwithstanding his command for the adjournment thereof,) sent a message for the serjeant with his mace, which, being taken from the table, there can be no farther proceeding; but the key of the door was taken from the serjeant, (by Sir Miles Hobart,) and delivered to a gentleman of the house to keep, and the serjeant himself (being a very old man) was, at his request, suffered to go out only, and stood without the door, but left his mace behind him.

After this the king sent Maxwell with his black rod, for the dissolving of the parliament; but being informed that neither he nor his message could be received by the house, his majesty grew into much rage, and sent for

means to raise a power against their sovereign, which, how it was done, and by what degrees, and how improved, is the chief intent of our business to set forth.

At the time of assembling this unhappy parliament there were two armies on foot in England, whereof one was that of the Scots, and another consisting of Englishmen, to oppose them, if occasion were; and the king, to remove all jealousy of a wilful continuance of the war, by engaging them to a fresh hostility, had made the Earl of Holland (a person then standing gracious with the parliament and people) general of the English army. The persons who knew themselves faulty in holding intelligence with the Scots, were then so apprehensive of a complete agreement between his majesty and them, and of their being won to a compliance with him in all things, as the Earl of Holland, in a private letter to Mr Pym, writ somewhat to this effect: "That the sky was horribly black in those northern parts, and that all things there seemed as tending

the captain of the pensioners and his guard, to force the door; but the rising of the house prevented the inconveniences and mischief that hereon might have ensued. On the 10th, nevertheless, his majesty returned to the house of peers, and, without sending for the commons, (whom he took occasion, in his speech to their lordships, to brand as "disaffected persons," or to call "vipers," according to Rushworth,) ordered the lord-keeper to dissolve the parliament, which was done accordingly.

In the same heat he also caused orders of council to be issued, for the offending members to appear before them. Those that obeyed were Mr Denzil Holles, Sir Peter Hayman, Sir John Elliot, and Sir Miles Hobart, (not Coriton and Valentine, as is asserted by Whitlock and Rushworth,) and what passed on that important occasion was as follows:

Sir Peter Hayman was asked, "Wherefore he so reproved the speaker of the lower house of parliament?"

And answered, "Because he was their speaker, and so the servant of the house, and one that ought to have been employed in the house's commands; and he did it with the more freedom and detestation because he was also his countryman, though he should have done it to any other man that had in the same kind deserved it."

He was asked again, "What would you yourself have done had you been speaker, and commanded by the king to deliver such a message from his majesty to the house?"

And answered, "I would have thrown myself at his majesty's feet, and have given him to understand, that in respect I was the speaker, I was the most imperfect and unfit person to deliver any such message; and therefore most humbly have supplicated his majesty to solicit some other to perform that part."

Sir John Elliot was asked, "Whether he had not spoken such and such words in the parliament-house, and shewed such a paper?"

And answered, "That whatsoever was done or said by him in that place, and at that time, was performed as he was a public man and a member of the house; and that he was, and always would be, ready to give an account of his sayings and doings in that place, whenever he should be called unto it by the house, where he was, he took it, only to be questioned. In the mean time, being now a private man, he should not trouble himself to remember what he had there spoken or done in that place as a public man."

Sir Miles Hobart, being questioned about shutting the door, answered, "That he desired to know by what authority he was examined to give an account of his actions done in parliament? That he thought it was a course without precedent; and that no court nor commission could take notice of any thing done or said in parliament but a parliament. Nevertheless, he would not stick to say and confess, that it was he that shut the door, and put the key in his pocket; and he did so because the house commanded it."

And, lastly, Mr Denzil Holles being questioned, "Wherefore he, contrary to his use, did that morning that the tumult was in the house, place himself above diverse of the privy-council by the chair?"

Replied, "That he had at some other times as well as then, seated himself in that place; and as for his doing so, he took it to be his due in any place whatsoever, except at the council table; and that, for his part, he came into the house that morning with as great zeal to do his majesty service as any one whatsoever; yet, nevertheless, finding his majesty was offended with him, he humbly desired he might be the subject of his majesty's mercy, and not of his power."

To which the lord-treasurer answered, "He meant rather of his mercy than his justice." But he said, "I say of his power, my lord."

The particulars of this examination are taken out of the council-books; and, to close on this head, it may be proper to add, first, that, in resentment of this noble firmness, these gentlemen, and all the others concerned in that force on the speaker, were committed to the Tower, were prosecuted both in the Star-Chamber and in the King's Bench, were denyed the benefit of their *Habeas Corpora*, and, upon the issue of all, were not only fined, (that is to say, Elliot 2000*l.* Holles 1000 marks, Valentine 500*l.*) but, by express sentence, ordered to be kept in prison till they had given security for their good behaviour, and made a submission and acknowledgment of their offences, as may be seen more at large in Rushworth and Whitlock. And, secondly, that when the new parliament met in 1640, one of their first concerns was to provide an additional fence for their own privileges, by taking the whole proceedings into examination, and by passing some of the strongest votes upon it that are, upon any occasion whatsoever, to be found upon their books.—*Note of the last Editor.*

to an universal judgment." The earl, being then general, could not intend this other than a private advertisement; but Mr Pym, finding the publication of it a fit means to encrease the general apprehensions, presently imparted that letter to the house of commons, and from thence the substance of it was divulged over all the city of London. This served to keep the people in a heat and jealousy concerning the king's intentions; but that heat proved vain, for the pacification was effected wholly by interposition of the English commissioners, who were persons approved of by the parliament as to that employment. But this business of satisfying the Scots, and of disbanding of the armies, requiring vast sums of money, there were great taxes laid upon the people by act of parliament, which money was not likely to be levied in much time; and therefore there needed a present supply by the city of London, who (as was pretended) would not part with their money, lest a dissolution of the parliament should come before payment: thereupon the king was pressed to pass the act of continuance, whereby the parliament could not be dissolved but by their own consent. This act had the royal assent, and gave to the crown the greatest blow that it had yet received; for so the king established against himself a power which he could not extinguish. This pacification being free from all secret agreements with the Scots, gave a great strength and confidence to our *Ciniflones*, or kindlers of sedition. For though the presbyterian discipline was now again confirmed as to Scotland, yet it was impossible that the Scots could think themselves secure to hold it, as long as episcopacy stood firm in England, in which respect they could not but be willing to assist those whose design it was to abolish it. Before this time it was thought fit to deprive the king of two prime counsellors, the Archbishop of Canterbury[1] and the Earl of Strafford, (whose names were delivered in by the Scottish commissioners as incendiaries between the two nations,) which was done by way of an impeachment by the house of commons at the lords bar, for high treason. Upon this impeachment it was found requisite to commit them presently to the Tower, so as the king was immediately deprived of their advice in council; and the Earl of Strafford was speedily brought to trial in Westminster-Hall with much solemnity, which had continuance for many days, and at last was broken up with heat and violence by the house of commons, such as ill became the gravity of that assembly, and they did it, conceiving that the lords carried themselves partially in relation to the person impeached. But his condemnation was finished afterwards by the legislative power in a bill of attainder,[2] which could not pass the lords till many of them were so terrified by tumults, as they found it for their safety to be absent at the last reading: and this business of the bill was carried on with such violence, that there was a kind of proscription of such persons as in the house of commons had voted against the bill; for their names were posted up in London by the care of some malicious body. The archbishop was reserved to a trial, less legal as to the form, but no less fatal to his ruin, being some few years after condemned by a bill passed in both houses, but wanting the royal assent. At or about the time of Strafford's trial, there was a general licentiousness used. The parliament houses were daily haunted with a

[1] Dr Laud, who was committed to the Tower in March, 1641. In November, 1644, the lords concurred in opinion that the archbishop was not guilty; but, being overawed by the commons, they passed an ordinance in January following for attainting him of high treason, and he was beheaded on Tower-Hill six days afterward, notwithstanding he produced the king's pardon. Lord Clarendon's character of this prelate was, that his learning, piety, and virtue have been attained by very few; and that the greatest of his infirmities are common to the best of men.

For this, and some other observations in this tract, the editor is obliged to some manuscript notes upon the copy he used for press.

[2] This bill of attainder was passed by commission, with another bill for perpetuating the parliament. The king himself became the advocate of Lord Strafford, in a speech made before the lords; but this seems rather to have accelerated his condemnation, and he suffered with an exemplary composure on May 10, 1641.

rabble of tumultuating people, crying out for that which they called *justice.*[1] There was also a liberty assumed and connived at, to print and publish what every one thought fit, which, for the most part, was in defamation of the governors ecclesiastical and temporal. Within the city of London the pulpits were almost wholly possessed by presbyterian ministers, whose eloquence was altogether employed the same way. In the country, (or at least in diverse parts) there was such encouragement given underhand, as the common people fell upon popish recusants, and plundered their houses with all severity; and the house of commons, being made acquainted with the inconvenience and terror of these tumults, as well by their own members as by a message from the house of lords, would not be drawn to discountenance, much less to declare against them. It was not long after the pacification that the Scots much urged the king to go into Scotland to be crowned, whereunto his majesty assented at the last, which gave great jealousy again at Westminster, insomuch as the parliament made some addresses to the king, desiring that he would not depart out of the kingdom at that time. But those addresses became altogether fruitless, the king declaring his absolute and peremptory engagement to go: and the apprehensions of this journey were so powerful, as a very active member of the house of commons, standing at the door of the lords' house, upon occasion of a message, having fetched a great sigh, made a profession, "That he thought we were all undone." But the presbyterian Scots continued true to their own interest, with a respect also to their profit, and expecting to be called again into England, as it came to pass afterwards. The Scottish coronation being passed, the king returned to London, and then the exasperations grew higher than ever. It seems his majesty was willing to impute the disorders in parliament to some particular persons, members of both houses, whom he had found to have held intelligence with his enemies; and therefore he directed his attorney-general to accuse the[2] five members (whose names are well known) in parliament of high treason, which was so ill resented in both houses as the impeachment was refused; thereupon his majesty fell upon that unhappy resolution of coming personally into the house of commons, which gave so great offence, as both houses, pretending they could not sit securely at Westminster without a guard, adjourned themselves for some days, and appointed to meet during the vacancy in London, as grand committees, to consider what was to be done upon the pretended breach of privilege. This gave a great advantage against the king; for by this means they had opportunity to fix their correspondence with the citizens, and to engage them in their defence. Between this time and the king's return out of Scotland, the court had been annoyed with a confluence of unruly people, so as it was thought fit to have a *corps de guard* (or a court of guard, as they call it) kept in the passage before Whitehall, to keep the rabble at a distance. But during this adjournment, the citizens of London became so engaged as, upon the day of the houses meeting again at Westminster, they sent a little army, with some field-pieces, for their security. These passed by land and by water on each side of Whitehall; and the noise of their coming was so loud, as it was concluded fit for the guard of Middlesex trained bands to withdraw, and so their passage became free. This was interpreted at court as the beginning of a war; and thereupon his majesty thought good to retire to Hampton-Court. After this there were many addresses to the king by the parliament, but not any that could be, in the least measure, pleasing to him. It happened that Mr Pym had newly and publicly (at a conference between the two houses, as I take it) used some words of disrespect to the king, wherewith his majesty ex-

[1] In the midst of this outcry for justice, the populace rifled Westminster-Abbey, and insulted the king at Whitehall; and when the magistrates would have committed some of them to prison, they were themselves committed by the members who had excited the insurrection.

[2] Pym, Hampden, Holles, Haslerig, and Stroud.

pressed himself to be offended; and thereupon the house of commons, having notice of the king's resentment, took a resolution to send his majesty a paper in full justification of that which Mr Pym had said. I myself was present at this resolution, and, appearing dissatisfied with it, immediately went out of doors, which being observed by a back friend of mine, he named me of the four to carry it. This unwelcome news was brought to me to my own house by one of our serjeants, with a copy of the order, which must not be disobeyed; and so we went, and delivered the paper to his majesty at Hampton-Court, which, being read, he began to discourse upon it, as if he expected reason from us, and seemed to address his speech more particularly to me, (perhaps having heard of my dislike). But Sir John Culpepper, then chancellor of the exchequer, and chief of the four, told his majesty, "We had not power to speak one word;" whereupon we were dismissed, and returned to London. After this the king left Hampton-Court, and went to Theobalds, whither the parliament sent a committee of lords and commons, but with a[1] message, either so unreasonable or unseasonable, as the king thought fit to dismiss them with an absolute negative; and there passed something then which perhaps may be fit to be inserted herein, as containing that which is something extraordinary. I received the relation from a noble person, who was one of the commoners then sent, and this it is. After having received his majesty's answer, the committee, being still at Theobalds, retired itself, to take into consideration the terms of it, that there might be no difference in reporting to the several houses of parliament. As soon as the committee was set, the Earl of Warwick was called out, to speak with his brother, the Earl of Newport. He went out, and speedily returned with this account of the business: "That the Earl of Newport had acquainted him, that the king was even then so pressed to give a more satisfactory answer, as he was confident they should have such an answer, if they would but defer their departure for a small season." To this the whole company seemed to assent with much chearfulness, when suddenly young Sir Henry Vane declared himself to marvel at it. "For," said he, "is there any person here who can undertake to know the parliament's mind; that is, whether this which we have, or that which is called a more satisfactory answer, will be more pleasing to the houses? For my part I cannot; and if there be any man that can, let him speak." To this no man made any answer; and so, having agreed upon the report to be made, they departed. I have related this to shew how easily one subtle, ill-disposed person may overthrow a general good intention. Now were the well-affected party (as it was then termed) stirred up in all parts, to give encouragement to the house of commons, in the way of pretended reformation, by petitions, whereof some were delivered daily at the bar, and the deliverers had thanks given by the speaker, which was a thing altogether new: and, as a general return to these, and to keep the people in perfect heat, it was resolved, "That a general and public declaration of the state of the kingdom should be made to the nation." In time of former princes, the house of commons had sometimes (but very rarely) made remonstrances of that nature to the king, which were never pleasing to him, yet not justly to be excepted against, because it is expressed in the writs of summons that they are to advise his majesty; but for any advising (or treating with) the people, it was always held illegal, and of mischievous consequence. Upon these grounds the declaration being brought into the house, caused a very long debate, but was at last passed, with the dissent of very many of the most considerable members. Our nation being in such disorder, the rebellion broke out in Ireland; and the lords of the council being yet in London, imparted their new received intelligence to the house of commons, who seemed chearfully to embrace the business of reducing that kingdom to obedience, and thereupon endeavoured the

[1] Requiring him to agree with his two houses in settling the militia, according to the humble petition and advice, or, in other words, to transfer the power of the sword out of his own hands into theirs.—*Orig. Note.*

raising of a stock of money by adventure, upon security of the living bears-skin, which were the estates of such persons as were in rebellion. Upon this the king made offer of going in person to suppress the rebellion, if he might be supplied with money and other necessaries for the work; which offer was so far from being hearkened unto at Westminster, as it created new jealousy. But the parliament made good use of the Irish business; for by that means they listed officers, and made full enquiry concerning their inclinations, which succeeded happily with them afterwards. Every day produced new differences between the king and parliament; for that unsatiable monster of public security caused the making of a proposition to his majesty, which was, that the parliament might govern the militia, (or train-bands,) for some time at least, which was rejected by the king, as a power not to be parted withal, no, not for an hour; whereupon the parliament made new lieutenants for each county, who assumed the exercise of that power by parliamentary authority in many parts of the kingdom. And upon the same ground of public security, Sir John Hotham seized upon the town of Kingston upon Hull, with the king's magazine there, which his majesty cried out upon, not only as a rebellious, but as a robbing him of his arms and ammunition, being personal goods bought with his money, and this before any the least act of hostility shewed on his part. The king was then retired to the city of York, as a place of more safety than nearer to London: and there, first of all, the warrants of parliament being sent by express messengers for delinquents, (by them so stiled,) were flatly disobeyed, which was no unwelcome news to the great managers of affairs at Westminster; for they pretended such obstruction of justice to be a justifiable and sufficient ground for the raising of forces. When the opposition was grown to this height, his majesty judged it fit that such members of both houses as had resolved against the parliament should withdraw themselves; and one of the last that continued sitting in the house of commons was Mr Sydney Godolphin, who, for a farewell, declared, "That by a war the parliament would expose itself to unknown dangers: for," said he, "when the cards are once shuffled, no man knows what the game will be;" which was afterwards found by parliament too true, when their own army became their masters. But, in the mean time, this secession of members did very much facilitate the entry into, and continuance of the war; all dispute being taken away within the houses, and the house of commons would not lose this convenience, and therefore they soon excluded the withdrawn members by special vote. This abscission, or cutting off of members, had been formerly used in this and other parliaments, but very rarely, and for offences extraordinary, and such an offence was this obedience to his majesty then adjudged to be: so unfitting a time for judgment is the heat of civil war, in matters relating to that war!

This war first began in paper, by manifestos and declarations, on both parts, which brings to remembrance a pleasant passage in the house of commons upon this account. One of the members brought in with him into the house a declaration of his majesty's which he had newly bought; and complained much of those who were so insolent as freely to sell such papers of the king's. At this a young gentleman (of those who were accounted fanatics in those days, but one who never spake publicly in the house) grew into a seeming impatience, and said with much earnestness, "Why not his papers as well as every man's else?" which, though loudly, yet being spoken without standing up, was answered only with looks and smiles. This passage is scarcely worthy of a place in any serious discourse; yet it seemeth naturally to express the small ingenuity of those times, which allowed not to a sovereign prince, in his own dominions, that freedom which every petty fellow assumed without exception. At this time both parties were employed in raising of forces: the Earl of Essex[1] being made captain-ge-

[1] This was Robert, the only son of the celebrated Earl of Essex. He undertook the command of the parliamentary army in 1642, but his martial splendour was soon eclipsed by the exploits of Fairfax and others.

neral for the king and parliament, (as the stile of the war was then) with full power to nominate officers; and I can affirm, that the army was raised with great difficulty; there being immediately, upon grant of that commission, the greatest solicitude at Westminster that I had seen; whereof I myself taking notice before a member, who was designed to a principal command in the army, as a thing of small encouragement, he made this answer, "That he thought the people of England were mad, being so blind to the discerning of their own interest." But the parliament's business was more and more facilitated every day, there being a committee, erected of lords and commons, called the committee of safety, in the nature of a privy-council; and money or plate coming in freely (upon the propositions for contribution) in London beyond any man's expectation. But that which most advanced the levies, was a liberty declared for apprentices to forsake their master's service at this time, without loss of[1] freedom: and the nomination of colonels, members of both houses, being persons eminent for popularity, so as the army consisted very much of boys at the first; but there being great scarcity of experienced commanders, the general thought it necessary to accept the service of diverse Scottishmen, whom the assurance of good pay had invited to offer themselves; being not only able persons for command, but also better hardened in the way of military opposition to the royal power than our English. Now there passed every day acts of hostility; for the king appearing in person before Hull, and entrance being denied, raised a battery against the town, and laid a kind of siege to it. On the other side, the parliament's forces seized every day upon such places as they found necessary in the way of advantage for war; so as Mars began to exercise his power in several parts of the kingdom, even to blood, by wrestlings between the respective partizans when they met; as also by the siege of Warwick-Castle by the Earl of Northampton, who soon after lost his life in the king's service; and the parliament itself

[1] This circumstance gave rise to the following mock-petition, which was preserved in that part of Lord Somers's Collection now belonging to Sir Thomas Webster.

To the Lords and Commons, continuing at Westminster, the humble Petition of the Scholars of the several Grammar-Schools in and about the City of London,

SHEWETH,

THAT your pretty petitioners, having heard of your admirable vigilance and policy, in granting free leave to the apprentices of this city for the public good, to run from their masters, and to serve their time out under his excellency, with whom they may have the honour to live and die; and that, for the satisfaction of their friends, who foolishly expect, that their said children should be taught their trades, whereby they might be hereafter enabled to live honestly in their several vocations, your wonderful justice and power have ordained that they shall lose no time in the expedition they have now undertaken, but that when his excellency and the public good shall be able to defend one another, all evil counsellors and the malignant party being devoured and eaten up, and his majesty gotten into honest hands again, that the said apprentices shall (if they please) return to their several shops, and be made foremen and freemen, as if their aprons had never been left off, with other notable privileges against their masters, and with their mistresses, which your grave wisdoms, for the enconragement of well-affected persons, have provided for them.

Your petitioners fall upon their knees before your almightiness, and desire that in this year of jubilee, when all manner of people are suffered to do what they please, and no rules, laws, or orders are left to compel this free-born nation, they may not be left the only subjects of this kingdom, but may be also at liberty to exercise their conscience, and suffered to do their weak endeavours against their sovereign, for his good, under the command of his excellency; not doubting but they shall so learn the use of their arms too, that they may be able to kill any man within two foot of the king's majesty, and never endanger him, against whom they desire not to be thought to bear the least ill-will in the world: and that you declare and vote, that, after the short business in hand shall be performed, your hopeful petitioners shall be as good scholars as if they had continued at school, or in the university, and have the same privileges and abilities to preach and teach as those simple lazy people, who, neglecting to join with you in making these present distractions, make no advantages of the wonderful things you have done, but, in contempt of your authority, live as if there were no parliament:

And your petitioners shall grow up and confirm themselves to those principles of necessary and wholesome rebellion, which your grave wisdoms shall declare to be most agreeable to the fundamental laws of this kingdom.

Printed in the year 1640. *Original Note.*

then seemed to have asumed a new nature, according to the businesses there agitated, which were only relating to the war. After several skirmishes between parties, the armies came to face one another at Edgehill, in the year 1642, whereupon ensued a battle, and notice being given at Westminster, we were in continual expectation of the issue; and the house being set in the afternoon, there came a messenger, who brought word that the parliament's army was so worsted, as he himself saw the Earl of Essex's cannon seized by the king's forces. This gave so great a terror, as the speaker Lenthall addressed himself to some of us, and used these terms: "Gentlemen, you shall do well to send to his majesty betimes, to ask conditions, lest, by delaying, you come too late to effect your security." Such a terror did the present apprehension strike into him and many others; but it was not long before an express messenger came from the general himself, signifying, that he was master of the field, and had been once possessed of the royal standard. This gave fresh courage; yet the intelligence brought by the first person was true; for the parliament's left wing had been routed, and their cannon possessed; but, for want of discipline, the prevailers applied themselves to plunder the baggage, and so the other part of his majesty's army was borne down, and the Earl of Essex remained possessed of the field (or *Champ de Battaile*, as the French call it;) but with his forces so broken, as the king's army, having done their business in forcing a passage, pursued their design, and marched forwards, which Essex termed a flight, and said, "that, for want of horse, he could not prosecute his victory, without a fresh supply from London." And thus the victory is pretended to on both sides, and not without a fair colour. Not long after this, the king, having refreshed his army at Oxford, marched with it towards[1] London; yet could not do this with such expedition,

[1] The parliament now thought fit to agree to an address for peace, which the king accepted, and appointed Windsor for the place of treaty; but, in the mean time, forced the pass at Brentford-Bridge; upon which both houses, in a fit of resentment, voted that they would have no accommodation; and it was at this crisis that the two following speeches were set forth in print, under this title:

Two Speeches made in the House of Peers, on Monday, December 19th, for and against Accommodation; the one by the Earl of Pembroke, the other by the Lord Brooke. The latter printed by order of the House of Commons. Hen. Elsinge, Cler. Parl D. Com.

The Earl of Pembroke's Speech.

My Lords,

I have not used to trouble you with long speeches; I know I am an ill speaker; but though I am no scholar, I am an honest man, and have a good heart to my king and country.

I have more to lose than many of these who so hotly oppose an accommodation: I will not forfeit my estate to satisfy their humours or ambitions. My Lords, it is time to look about us, and not suffer ourselves to be fooled out of our lives, our honours, and our fortunes, to help those men who, when their turns are served, will despise us; and begin to laugh at us already.

A fellow here of the town, an ordinary, scurvy fellow, told me the other day to my face, that he cared not if I left them to-morrow: nay, if all the lords (except three or four that he named, and said he was sure would not leave them) went to the king, they should do their business the better. Yet, my lords, I think we have helped them: I am sure they could never have brought it to this without us; if we had not joined with them, I think the people would not have followed the house of commons. Now they can do their business without us. It will be worse shortly if we do not look about us.

My lords, we were told this time twelve-month, if we would put the bishops out of the lords' house, no farther attempt should be made upon the church. I am sure I was promised so by some who would be thought honest men; and when I told them, it was reported that they meant to take away episcopacy, and the book of common prayer, they protested to me, "That in the first they intended nothing but to appoint some godly ministers to assist the bishops in ordination, and some other things that I do not understand;" and for the book of common prayer, they who were strictest against it, and would never be present at it, assured me, "That if it were once confirmed by act of parliament (for they said many things were put into it by the bishops without authority) they would be content:" and on my conscience so they would, if they had the places they then looked for.

Now nothing will content them but "no bishop no book of common prayer;" and shortly it will be "no lords, no gentlemen, and no books at all;" for we have preachers already that can neither write nor read.

My lords, I wonder what we shall get by this war; we venture more than other men; I am sure I venture

but that General Essex was gotten thither before him: and the citizens of London were so fearful of being plundered, as they came out unanimously for defence; and so

more than five hundred of them; and the most I can look for is to scape undoing; what between being a traitor and being a malignant, we have but a narrow way to walk in. We hear every base fellow say in the street, as we pass by in our coaches, "That they hope to see us a foot shortly, and to be as good men as the lords;" and I think they will be as good as their words, if we take this course.

They say, they will have no peace without truth. Death! have we no truth? Have we lived all this while in ignorance? I think our fathers were as wise men as they. Had we had no truth in Queen Elizabeth's time? Have not all our famous, learned divines been able to teach us truth, but must we learn it only out of tubs?

My lords, I am no scholar, but I understand men; and I had rather continue ignorant still than enjoy the truth these men would have; I have served the king's father and himself, and though I have been so unhappy to fall into his displeasure, nobody shall persuade me to turn traitor: I have too much to lose.

I am a true protestant, and I love the king and kingdom, and I am sure war is good for neither of them. I would every body's faults were forgiven them, and I think we should all take heed how we committed new.

Good, my lords, let us have peace, and if these men will not consent to it, let us think of some other way to get it.

The Lord Brook's Speech, in Answer to the former: which is not in Rushworth, nor in any other Collection that the Editor hath seen.

My Lords,

SOMEWHAT that fell from the lord who spake last calls me up. He tells you what he was promised by some, that this and that reformation would content them, and they would press no farther. Besides the conversation that we all know hath been between them, he invited you by his eye to think a noble lord on the viscount's bench (Say and Seale) concerned. 'Tis true, several discourses have often passed between them in my hearing of this business, and it is very like he did not usually acquaint him with all his thoughts. If he found he was not like to hold out to the end of the journey, he was not to be blamed for desiring his company as far as he was willing to go; the other part would be the easier performed by those to whom the lord hath revealed his will. If he hath been made an instrument of more service to God and his country than he intended, he should rather thank the means that cozened him to so much good, than, because his faith fails in the race, reproach them who first encouraged him to run. If he hath done nothing but what his conscience persuaded him was just and fit, he hath no cause to complain; if otherwise, I am sure nothing that my friend said to him can be his excuse. He tells you much of what he hath to lose, and into what contempt the nobility will grow, if there be not a speedy accommodation: and I fear these vile considerations have hung plummets on some of our wings, which by this time would have mounted us higher. But these are the baits the enemy of godliness and true holiness flings in the way, to discourage worldly minds from fighting the good fight of the Lord. We do not find that, among all the acts of the creation, the Almighty ever made an earl, or a lord. I will not deny but that sometimes (not always) the hearts of princes have been moved by Providence, to advance some persons to those degrees; and, surely, if we shall be contented, for the setting forward of a good cause, to mingle ourselves with the meanest of the people; for the procuring a parity in the church, to consent to a parity in the state; and for the subduing the pride of kings, for a time, to part with the power of noblemen; I doubt not, but when the good work in hand shall be finished, we shall be again advanced above our brethren, according to our several talents; and govern them according to that rule which shall most advantage God's cause.

My lords, that lord shall not find fault with me for concealing my intentions; I will deal freely with him; I am with all my heart against this accommodation, against any whisper or thought of an accommodation, till his majesty shall submit to our nineteen propositions, and to all the propositions we have since made, and deliver up all those wicked evil counsellors, who have saucily told him, "'Tis lawful for him to deny us any thing." I know we have many difficulties to wrestle with, and that many fall from us daily; they who have "much to lose" (as that lord said) will be quickly weary of us; and yet some men of good fortune will not leave us. They who have a sense of gratitude, of past obligations, or future hopes from his majesty, will be startled at our resolution! Yet I see many here the most notoriously obliged, indeed as much as servants can be to a master, in this cause; who have mastered those vulgar considerations, and had the courage almost to despise him to his face. Besides, the wisest men will not think themselves incapable of future favours, if they use their utmost power to reduce him to a necessity of granting. They who are transported with natural affection to their fathers and brothers, kindred, friends, will not keep us company. Yet this troubles me the less, whilst I see those noble lords in my eye (upon whom I can never look enough) who, banishing those womanish and effeminate fancies, chearfully undertook to serve against that army, wherein they knew their own fathers were; and, on my conscience (I speak it to their honour) had they met them alone, would piously have sacrificed them to the commands of both houses. They who think that human laws can bind the conscience, and will examine the oaths they have taken, according to the interpretations of men, will in time fall from us. But such who religiously consider, that such moral precepts are fitter for heathens than for Christians, and that we ought to lead our lives according to the rule of God's word; and that the laws of the land (being but man's invention) must not check God's children in doing the work of their heavenly Father, will not faint in their duty.

his majesty thought good to retreat to Oxford, which gave a period to action for that year. Somewhat before the late encounter near Brentford, the House of Commons ordered me to go into the country for which I served, where I found all full of terror; the common people generally apprehending that the cavaliers (as the royalists were then called) were coming to plunder them. This fear was artificially put into them, as I could easily perceive: for the country was full of strange fictions of their inhuman carriage in other countries, and, being at my usual mansion, we had scarcely any rest (no not in the night) for messengers giving the alarm; and the manner was to bring a paper of intelligence without any subscription, and this must be taken for truth, without any farther proof. These alarms generated strange, wild, and indigested propositions; such as were not to be hearkened unto by any person of judgment and experience; yet they were some way tending to the great design of raising the terror to a height, and putting arms into the hands of schismatical people, under the name of volunteers; and by those means to form a new power, to be disposed of upon occasion in any part of the kingdom, without the limits of their own counties, as it came to pass afterwards, when major-generals were established. But since the king's forces did not really make any approach towards us, and since I had not accepted of any command to oblige my stay in the country, I made my return to London, and applied myself to my constant course of attending in parliament, where I found the state of business somewhat altered. For General Essex began now to appear to the private cabalists somewhat wresty, so as they found it necessary to raise new forces to be commanded less immediately by him. Upon this there was a kind of army put under command of Sir William Waller[1] and Sir Arthur Haslerig, whose actions were afterwards as much cried up as the general's were cried down. And then there were also ordinances of parliament (which kind of law grew now in fashion) framed, and passed for constituting associations, whereof the eastern was chief, and much promoted by Cromwell, who founded his greatness there: though for the present he was commanded by the Lord

My lords, it is a singular instance of God's blessing upon this parliament, that those truths, which the pride and superstition of the bishops used all possible means to smother, are now taught in the pulpits, that the poor people's zeal to God may not be corrupted by their duty to the king. By the christian labour of those painful preachers, we shall not want hands to bring all our wishes to pass: and let us not, out of any worldly respects of estate, wives, children, honour, good-nature, justice, compassion, care of trade, or of laws, grow slack and lazy in our undertakings, upon the success of which the eyes of Christendom are fixed; but let us proceed to "shed the blood of the ungodly."

And so, my lords, hoping that what that lord hath said hath moved nothing with you, or the most of you, and that what he can do will prevail as little in other places, I have expressed the thoughts of my heart to you; and if the house shall incline that way, shall desire leave to enter my protestation against any accommodation.

Wednesday, the 21st of December, 1642.

Resolved upon the question,

That Mr Boswell be desired to wait upon the Lord Brooke, and in the name of this house, to give his lordship thanks for the excellent speech he lately made in the house of peers against an accommodation; and to desire his lordship (since this house is informed that the Earl of Pembroke hath given many copies of his speech wh ch occasioned the other) that he will cause that speech to be printed and published.

H. Elsynge, Cler. Parl. D. Com.

The Lord who uttered this strange mixture of great, shrewd, and savage things, was killed at Lichfield by a shot in the eye in the spring following. But, as if his own invincible spirit had still animated his men, they made themselves masters of the place they attacked, and took the Earl of Chesterfield, who defended it for the king, with his whole party, prisoners.

The preceding speech, assigned to Robert Greville Lord Brooke, is said, by Mrs Macauley, to have been fabricated by the Earl of Clarendon, in order to vilify that republican peer. See Hist. of Eng. vol. iii. This would appear to be the case from the Life of Lord Clarendon, part II. and yet Lord Brooke was content to receive the thanks of the peers on the occasion, and thereby to make the speech be received as his own.

[1] Sir William Waller, says Hume, began to distinguish himself among the generals of the army in 1643. Oliver Cromwell served under him, the king feared him, and the parliament had much dependence on him: but he was several times defeated, and at the battle of Roundway-Down, totally routed, as were the cuirassiers commanded by Sir Arthur Haslerig, of whom the poet Cleveland said—"They turned crabs, and went backwards."

Grey[1] of Werke, chosen major-general of that association, and placed in that command as a person less active, and more to be wrought upon, than he afterwards proved to be; which made Essex, who had yet power sufficient to crush him, cause him (after about a year's service in that command) to be summoned to his attendance in that lord's house, with a substitution of the Earl of Manchester in his place of major-general, being one of his own near relations. The house of commons was employed in providing money, without which they could have no good effect of their armies. Several ways were found, but no one (nor all of them together) answerable to their occasions. One was by sequestration of delinquents' estates, not excepting the king's own revenue, which last yielded the best supply, being managed by a committee of parliament; whereas they were enforced to use ravenous people in the sequestration of private estates, making a very slender account to the public, and converting most of the profits to their own use, whereof the parliament was not in condition to take much notice at that time. Another way of raising money there was, by requiring a twentieth part of goods, and a fifth part of every man's revenue. This began upon persons disaffected to the parliament; but came at last to be a calling dance, being made general; and herein both parties did good service, by giving complete information concerning one another's estates. But the last and surest was a monthly tax for the army, which was the first of that kind, and likeliest to continue in being. And now the case is wholly altered, for every demand must be answered; there being armies on foot, very well disposed to constrain payment in case of refusal.

About this time, those persons who had been nominated committees in each county for money-matters, held meetings (in imitation of the covenanters tables in Scotland,) and took upon them the decision of businesses relating to the county in general, but especially as to the war, which comprized the suppression of the royalists; and by this means they exercised an unlimited power, being assured of indemnity at Westminster, for all things done in the way of advantage to their military affairs. While the asperities of war lay thus frozen up in winter quarters, it pleased his majesty to send the Earl of Southampton and Sir John Culpepper with a proposition for a treaty of peace, and a considerable member of our house made this relation to me of Mr Pym's opinion concerning it. This gentleman said, he met Mr Pym going into the committee of safety, and, desiring a word with him, asked "If he knew the substance of Southampton's message, and what he thought of it?" Mr Pym's answer was, "That he knew the particulars, and praised God in his heart, hoping that the issue of it would be happy for the kingdom." But it seems, that being entered into the committee, his mind soon changed; for the general, (with other lords there) were absolutely for the refusal of it, which was the event of it also in parliament, and not without some harshness in the manner; for Southampton and Culpepper would have delivered their message in the respective houses within the bar, as members, which was refused to them; and so their message being made known, and unanimously concluded unseasonable, by reason of the general's standing yet (together with diverse other eminent persons) declared traitor, they both returned to Oxford. This may appear strange, since the general was conceived to wish and labour for peace; which may the better be believed, because, after this time, he sent a letter to the parliament, to express his sense of the nation's miserable condition under a war, and to desire that there might be propositions of peace sent to his majesty, (a fault never to be forgiven by the private caballists,) which desire of restoring peace continued with him even to his end, as was hinted in his funeral sermon, wherein he was compared to Abner, who perished, being in such a

[1] Lord Grey, afterwards Earl of Tankerville, of much notoriety for the share he took in a conspiracy termed "The Rye-house plot:" and not less talked of, in his own time, for a scandalous intrigue with his wife's sister. —*See Mr* Fox's *Hist. of the Reign of James II.*

design. But it is usual for such persons to dislike all pacification, saving what is procured by themselves, wherein their own interests are fully provided for; and it is very likely that Essex would have had the business to pass chiefly through his own hands, whereby we may see how far a poor nation may suffer by the ambition of some principal persons. But howsoever it was with others, it is not to be doubted but some of the close cabal, rather than to yield to any pacification, were disposed to make use of the pious intimation delivered by a minister in a fast-sermon preached before the house of commons, which was this: "That if they could not effect the desired reformation, yet it would be in their power to break the pillars; and, as Sampson did, to pull down the house over the heads of their enemies." Yet, for public satisfaction, (the people being wearied with a war,) it was always in agitation to bring the business to a treaty, though not without much jealousy on the parliament's side; which might be much increased by a letter from a lord at Oxford to a commander in that army, which became public, being intercepted, and contained these words: "Do but cudgel them into a treaty, and we shall do well enough with them." Before drawing the armies out in the year 1643, there had been a hopeful treaty of peace, both parties having tendered propositions, and commissioners being sent to Oxford to treat; but this was soon rendered fruitless by the parliament, who too far straitened the time of treaty, and bound up their commissioners by instructions, obliging them, in the first place, to treat upon and conclude the proposition for disbanding of the armies, which could not be consented to by his majesty, without assurance first had that the other most important articles would be agreed upon. And so at this time the poor people were defeated in their hopes; it being one of our cabals greatest arts to give way to a treaty of peace for public satisfaction, and then to bring it to a rupture in some plausible way, as here it was upon the article of disbanding, which was a thing so much desired by the people. This year, 1643, businesses were transacted at Westminster with greater height than ever; for the queen, being returned to the king's quarters with some assistance, the house of commons assumed the boldness to impeach her of high-treason at the lords' bar; and, about the same time, both houses voted a new great seal to be made, which is the instrument of royal power far above all others; and the doing of these two things could not but much exasperate his majesty. Yet their military affairs were never less successful; for the west of England was wholly lost by the defeat of the Earl of Stamford's army, and Bristol forced by Prince Rupert. In the northern parts the Earl of Newcastle was prevalent almost wholly; and certainly had the king (instead of besieging Gloucester) marched to London, and the Earl of Newcastle (instead of besieging Hull) forced his way into the eastern association, the war had come to a period; but divine Providence had designed a more gentle end, and disposed the minds of the northern and western armies so as they would not forsake their own country till they saw them cleared from all opposition. The parliament's business being in this evil condition, it was easily judged fit to call in the Scots, which matter being moved in the house of commons, and it being objected, that it would be fruitless to call them without proposing to them, at the same time, something of great advantage by it, there stood up presently that great patriot Henry Martin,[1] and desired, with much confidence, "That an offer might be made them of the counties of Northumberland and Cumberland; and in case they were not therewith contented, to add two such other counties in the north as should be most convenient for them." So little care had he, in that conjuncture, of the honour and advantage of the English nation. This was justly thought extravagant; yet that business of calling in the Scots being communi-

[1] Henry Martin was appointed governor of Reading by the parliament, and being panic-struck at the approach of a party of horse from the king's army, he and his garrison fled to London, where they excited a sympathetic alarm. He was afterwards cudgelled in the Painted-chamber by the Earl of Northumberland for having opened a letter which the earl had written to his lady from Oxford.—See CLARENDON.

cated to the lords, there was a committee of lords and commons nominated to go into Scotland; and matters were so transacted with the Scots, as they entered into England with an army the February following. I should have related how, in the former year, after the king's retiring from parliament, there was set up, at Westminster, an assembly of divines, being an ecclesiastical body of strange constitution, and composed of persons nominated by the knights and burgesses of each county, to which were added a small number named by the lords, and some few commissioners deputed by the kirk of Scotland. This assembly, being so extraordinary in the constitution, was certainly designed to produce great effects; but the success was not answerable, for they could never perfect their model of church-government, not well agreeing among themselves, by reason of the independent members, who approved of no church discipline other than parochial; and even that part of the model which was concluded upon with approbation of parliament, could never be put in execution, the presbyterian discipline being so strict as made it unpleasing to most of the people, and especially to those of the gentry, who found themselves likely to be overpowered by the clergy, even in the places of their habitation: but the army, after it became new modelled, was wholly averse to it. I conceive the intentions of calling an assembly to have been these two: First, to have a synod of divines concurring in the subversion of the bishops and their hierarchy; and in this the parliament had their end fully, for the matter very well pleased all such persons as were earnestly of their party. And, secondly, to agree upon some uniformity in divine service, which was the ground of their directory. But all uniformity (or colour of it) was distasteful to the independents, which became the growing opinion, and at last so over-spread the army, as the sight of a black coat grew hateful to them; and so the directory fell to ground of itself. These assembly-men might well be discouraged, since hopes were given at first that the lands of bishops and of collegiate churches should be settled in some way for the raising in all parochial churches a competency of means for the ministers; but the necessities belonging to war exposed these to sale, and frustrated that hope. I should have related how the house of commons, finding the pulpits filled with persons disaffected to them, made a breach upon the lords in point of judicature, and erected a committee called of plundered ministers; and by this committee they ejected the old ministers, and placed new at pleasure. But because the ejected had been possessed of a freehold, the committee ordered to his wife and children a fifth part of the profits, if cause were not shewed to the contrary, which must be this, that the person displaced was otherwise possessed of temporal means sufficient; and, to my observation, there was scarcely any of the new placed who did not dispute that provision at the committee. But it seems that this committee could not dispatch that business fast enough; for the Earl of Manchester was afterwards invested with a power by both houses, to do the same thing within his association, as also to reform the university of Cambridge, where he had the like arbitrary power of ejection. But the parliament had a way of cementing their fluctuating faction by religious bands of union, which certainly they found very effectual, though upon differing grounds, or else they would never have had three of them in three or four years time, which I think is not to be paralleled in any other revolt. The first of these was a protestation in the year 1641, which, being before the war began, took into it the defence of his majesty's royal person, estate, and dignity. The second was termed a vow and covenant, set on foot in the year 1642; and this containeth no mention of the king, but in the way of forcible opposition to him by prosecuting the war. And the third was the Scottish covenant, which again taketh in the defence of his majesty's royal person, but in so perplexed and complicated a way, as it signified little. And in this was also contained a total abrogation of the government ecclesiastical by archbishops, bishops, &c., with the whole hierarchy, so as this covenant may be said to have spoken perfect Scottish. The taking of the first and last of these in their pro-

per time was pressed upon the people in general with all terror; and the vow and covenant (which related much to a particular conspiracy) only upon the members of both houses. And certainly it was a very useful policy to engage the most considerable persons in these oaths, and in other things rendering them odious to their prince, and exposing them to confiscation of their estates upon conquest, which could not but make them stick the more closely to common defence. All the time of this parliament it was the design of our cabalists to abate the power of the lords' house; and, in pursuance of that design, at the very beginning, in Strafford's business, they prevailed to have the recusant lords deprived of voting there; and afterwards they had not patience to stay till the bishops were excluded by the ordinance, but took advantage of a protestation made by such bishops as then sat in the house of lords, being about half their number; and, to my best remembrance, thus it was:—Those bishops having taken a resolution not to continue sitting long after his majesty's forsaking the southern parts; yet, finding that there was an ordinance coming for abolition of their order, which must pass the lords' house, they used their endeavours to enervate that which might be done in their absence; and upon that ground they entered a protestation, subscribed with their names, against all such determinations to their prejudice. This being become matter of record, the house of commons took notice of it, and came up presently with an impeachment of those bishops by name, as guilty of a *premunire*, in assuming to themselves a power to invalidate that which is otherwise the law of the land, viz the jurisdiction of parliament; and upon this ground (how justly I know not, for the matter was never brought to judgment) those bishops unhappily formed to themselves a deprivation instead of a withdrawing. By this means, and by the absence of those lords who withdrew themselves to serve his majesty, the house of peers was grown so empty as their authority became little considerable, which was not much regarded by our leaders in the house of commons, who (in all likelihood) had at that time a resolution to dissolve that house, as it came to pass afterwards. As great asserters of privilege of parliament as that house of commons pretended to be, yet they cared not how far they encroached upon the lords, nor how they violated their privileges; as may appear by a message delivered at their bar, near the beginning of the parliament, which was to this effect: "That the commons found in that house so great an obstruction of matters tending to the good of the commonwealth, as they desired their lordships to make known the names of such lords as were the causes of it, that they might be dealt with as enemies to the state; so as, in those days, the house of commons might properly use the French proverbial saying: "*Je n'aime pas le bruit, si je ne le faits.*" I love no noise but what I make myself. But their own house began to be almost as much cried out upon for paucity of members, and for this they provided a remedy sufficient by the new great seal; and there was little danger of bringing in evil members, for no writ of election could be issued but by warrant from the speaker, and consent of the house, who would not grant it for places where the people were known to be disaffected to the parliament. By this means the house became pretty well filled, and many of the new members were officers of the army, who had been so used to command, as, at the last, they found a way to command even the house itself. Besides this, the new great seal enabled the parliament to constitute judges, and to set up again the courts at common law, as also to make what justices of the peace they thought fit, whereof there was very great want in the parliament quarters till then; so as now there were complete judicial proceedings, both criminal and civil, which gave great satisfaction to the people, and who would have deserved high applause, but that all men knew this convenience to be raised upon a most unjust and insolent foundation.

Before this recruiting of the house of commons (as it was then called) the military affairs of parliament were much advanced; for, by the help and countenance of the Scottish army, his majesty's strength in the north was so broken, as the parliament

had first besieged Newark, and then the city of York; but both these towns were very bravely relieved by Prince Rupert; and could that prince have been contented with the honour of having effected his business in the dissolution of those sieges, it had been happy; but he, as a soldier, knew what a fear usually is attendant upon armies in a retreat, having been forced to forsake a siege; and thereupon he gave the parliament forces battle at Marston-Moor, and was defeat wholly, yet with such a confusion on both parts, as six generals present in that fight were said to take wing at the same time, conceiving their party to be utterly overthrown, whereof General Lesley of the Scottish was one. This set the parliament's reputation very high in point of strength, and gave opportunity to our cabalists of abating (or rather dissolving) Essex's power, who, as they conceived, (and perhaps grounding their conceit upon his letter for propositions to his majesty, in which letter he also expressed much care that the royal person might be preserved in safety) had no mind to an utter overthrow of the regal authority. So as when the armies were withdrawn into their winter-quarters, our grand politicians set themselves upon the effecting of this great work, which must have influence, as well upon Essex's chief adherents as upon himself. The manner of this critical business was thus: It was affirmed in the house of commons as impossible that the war could be brought to an end by an army that had totally lost its discipline; whereupon it was moved and assented, that a committee should be nominated for examination of corruptions and abuses in the army. This committee sat many days, and was very full of employment, till at last a report was called for. Then arose up Mr Tate,[1] the chairman, with a great bundle of papers in his hand, being a very great presbyterian, and little suspecting that this business would become the ruin of his party, as it did in conclusion, he appeared unwilling to make the report, but being pressed to do it, he desired, 'That the house would first give him leave to speak a few words;' and then he uttered his parable, concerning a man much troubled with blotches and boils in several parts of his body, who had recourse to a physician for cure; his doctor told him that he could give him plaisters to cure any part of his body so disaffected; but that whatsoever was healed in one member would break out again in another; for the whole habit of his body was corrupted, and that, if he would have perfect health, he must procure for himself a better habit of body, by much purgation, with a new diet, and so the ulcers would be healed of themselves. "This, (saith Mr Tate) is so applicable to the business in hand, as I hope the house will find no need of a report; and yet upon command I am ready to make it." Hereupon other members, who had prepared themselves, spake against the report, and said, that abroad, out of doors, all our ill successes were imputed to the absence of members from parliament; and then a motion was made,[2] 'That there might be a self-denying ordinance, by which all the members of either house might be deprived of other employments that diverted them from their service in parliament.' This was very hard of digestion to many members who had profitable offices; yet for public satisfaction, and for better reforming of the army, it was consented to, that there should be such an ordinance, which was afterwards brought in, and passed both houses. By this means, Essex, Denbigh, Manchester, Grey of Grooby, Sir William Waller, Haslerig, Brereton, Cromwell, and diverse others were deprived of command; though the last was never intended to suffer by this ordinance, as it appeared afterwards. But, notwithstanding all this, Essex had not surrendered his commission, and therefore something must be done to shew him a perfect necessity. So the house of commons proceeded in nomination of

[1] Zouch Tate, the first mover of the exclusion bill, or self-denying ordinance, after Cromwell had prepared the house for such a proposition.

[2] And seconded by Sir Henry Vane, from whose fertile brain is said to have proceeded the solemn league and covenant. His character is fully drawn by Lord Clarendon.

colonels for their new army, whereof Sir Thomas Fairfax was one, and at last he was voted to be general of it. He was a person eminent for valour, (*vaillant comme son espée,* fearless as his sword) but of a temper more flexible than Essex, and very many others, which pleased Cromwell, who meant to be the chief steersman. Not long after this, Essex finding himself *imperatorem sine exercitu*, a general without command, surrendered his commission, with many expressions of good affection to the parliament, and wholly bent himself to a retirement; being the first person, and last, of the nobility employed by the parliament in military affairs, which soon brought him to the period of his life. And may he be an example to all future ages, to deter all persons of like dignity from being instrumental in setting up a democratical power, whose interest it is to keep down all persons of his condition! Yet they did him all possible honour in his funeral, at the public charge: so acceptable is an opportune death![7] In pursuance of the great design, all the old commanders were wormed out by little and little, and none admitted to commands, but those persons who were known not only to be of an antimonarchical spirit, but purely disposed to the army's interests; which the army found very useful afterwards, when it began to contend with the house of commons for the sovereign power. By this it may appear how supinely negligent the parliament was in forbearing to mould the army with surer dependence upon itself; which might have been effected in the nomination of colonels and chief officers at first, if care had been taken for choice of many persons, who were resolved to stand and fall with their interest; such as were Colonel Harley and Sir Robert Pye, who forsook the army when it opposed itself to the parliament, and, for want of associates, could effect nothing but their own prejudice. As soon as this new army began to move, it was thought necessary by the house of commons to send Cromwell to them, who was there not only received, but intrusted with the command of all the cavalry, by the title of lieutenant-general, there being then no general of the horse. This army had but ill success at first, having laid siege to Oxford and failed, when, in the mean time, the king, with a brave army, had taken Leicester town, and struck a great terror into all the parts adjacent. But all this was useful only to bring on a greater misfortune, for General Fairfax drew his army that way; and the opposing of his passage brought on that fatal battle of Naseby, where there was so absolute a defeat of his majesty's forces as the after-strivings were but as labouring for breath by a person not long before his decease. After this Oxford was besieged again, and yielded by treaty, which was followed by a total dissolution of all his majesty's military power. Yet the king essayed to engage a powerful army for him, which was that of the Scots at Newark; and, that he might the more endear himself to these, he put his royall person wholly into their power. At first the Scots carried themselves as if they intended to appear worthy of so great confidence, for they presently marched northwards. The parliament gave no time to consider, but made a peremptory demand to have the king's person delivered to them, and had the help of Themistocles's two great gods Vis and Suada; the terror of a victorious army ready to fall upon them in case of refusal, and, by way of persuasion, a representation of their duty, that army being then in the parliament's pay, and obliged to act only in their service; to which, with many other reasons, was added a promise of their arrears, by very ready payment. The first of these was more likely to give offence than terror to so powerful a body; and as to that pretended duty of the army, it could not extend itself to the extinguishing of natural allegiance, which is a duty personal: But whatsoever arguments were used, the Scots consented to deliver him,

[7] The death of Essex was so acceptable to Cromwell and his party, that it was loudly said to have been produced by poison: but this is regarded by Dr Kippis as one of those groundless surmises which are frequently indulged at the sudden decease of eminent persons.—See *Biog. Brit. vol. V.*

and performed it to their eternal infamy; which infamy is much encreased by a breach of trust; (for having received his majesty, they ought to have set him in a state of freedom as good as he had when he came) and because the contracting for money makes the business appear as a sale of their sovereign prince. Soon after the king's forces were wholly dispersed; the army, being without employment, made business for itself, by interposing in public matters appertaining to the government, which was begun by a mutinous accusation of Mr Holles,[1] with other members to the number of eleven,[2] and a drawing up of the army southwards; whereupon the parliament sent commissioners to them, to expostulate about their remove southwards, and to promise all reasonable satisfaction in general terms. But nothing would serve without the exclusion of those members from the house of commons. But I should have related how, upon delivery of the king's person, the parliament placed him at Holdenby-House, with a guard of soldiers, and a committee of lords and commons to attend him, and to order matters there for his security. At this the army seemed to take offence; disliking the choice of commanders for his guard. But surely their main intention was, (since now an opposition to the parliament was designed) to have the royal person only in the power of the army; and thereupon they sent a party to take him from Holdenby, which was effected without the least opposition; and so they held his majesty with (or near) the army, till, being at Hampton-Court, the chief officers grew jealous that his residence with the soldiery might have an influence, endangering the power of them, the commanders. At this time Cromwell, who was the chief manager of affairs in the army, carried himself with such respect to his majesty, as his party grew highly jealous of him; insomuch, as John Lilborn,[3] the great leveller, offered a kind of accusation against him at the bar in the house of commons, whereunto there was little ear given by the house in general; but those who abhorred all reconciliation with his majesty remained unsatisfied, and began to complain bitterly of him one to another, as a person perfidious. But their fear was causless: for he never intended to be an instrument of so much good to the nation, and therefore his courtship must be thought to have had some other intention, which may be guessed at by that which followeth. While the army lay about Hampton-Court the houses were informed that the king had made an escape from thence, and that the chief commanders were very much distracted with the thought of it. This was very well dissembled; since it soon appeared, that the king had been persuaded to withdraw himself, and was never fully out of their power; for being quickly seized upon again, they placed him (according to their hearts desire) in the Isle of Wight, where there could be no addresses made to him but by their permission. Yet here the army was content the parliament should have the honour, that his majesty's person seemed to be in their custody; for the guard and care of him was referred to a person nominated (or at least approved of) by them, who was Colonel Hammond.[4] And now the English nation (though all too late) was grown so gene-

[1] Denzil Holles, the younger son and younger brother of the Earls of Clare, a person of great intrepidity and of great activity, as long as the presbyterians, of whom he was a leader, had any sway. He was active in the Restoration, and created Lord Hollis.

[2] Sir S. Stapleton, Sir W. Lewis, Sir J. Clotworthy, Sir W. Waller, Sir J. Maynard, General Massey, Glyn, Recorder of London, Col. Long, Col. Harley, and A. Nichols, Esq. The charge against them was for obstructing the business of Ireland, acting against the army, as also the laws and liberties of the people, obstructing justice, &c.

[3] Lilborn was at first a poor bookbinder, he next became a purveyor of seditious writings to the press, and lastly a virulent pamphleteer himself. His turbulent audacity procured him the title of "Freeborn John;" and Dr Grey conceives him to be characterized by Butler, as a "A haberdasher of small wares in politics and state affairs," &c. Cromwell found this man so obnoxious as to have him indicted for high treason; and, though acquitted by a jury, he never suffered him to be set at liberty, but continued to keep him in prison, or in exile, during his own life.

[4] The creature of Cromwell, through whom he obtained the government of the Isle of Wight, and by whose advice he married the daughter of John Hampden, the patriotic martyr.

rally sensible of their prince's distressed estate, as it drew on a treaty at Carisbrook-Castle, in the Isle of Wight, where the king had his forced residence, called the Personal Treaty, because none were admitted to be present at the debate but the king himself, and the commissioners of parliament. It is true, that the king might retire at any time into another room, to advise with divines and others, being persons of his own choice; but they were not admitted to be present with him for assistance in the debate. The terms were of very great disadvantage; yet the king carried himself even to the admiration of the commissioners. I remember that it happened after the report had been made in the house of commons, as we passed through Westminster-Hall, that one of us was speaking of his majesty's great abilities in the hearing of one of our grandees, who, turning his face to him who spake, used these words: "I perceive you take notice of the king's great abilities, and you may thence conclude with yourself that you have the more cause to take heed of him;" which speech I could not but find very strange, as if it were dangerous to a nation to be governed by a prince of parts extraordinary. But this treaty had the like issue with others, though the unsatisfactoriness of the king's concessions could not be voted in the house, as it was then constituted, which caused a new purgation of it by the army. Before this personal treaty, the parliament for a long time was enforced to take for payment whatsoever reasons the army-officers were pleased to tender for their justification; but in the year 1647, the army was grown to that insolence as the presbyterian party in parliament thought it unsufferable, and thereupon they took heart, and having made some resolute votes, sent a committee of both houses to the city of London, to engage them in an opposition to the army, together with the parliament. But there was then as great a schism (or rent) in the city as in the parliament; and the borough of Southwark siding wholly with the army, it was impossible for the city to stand out against it, so as that ill-grounded opposition fell wholly to the ground; and the speakers of both houses (who easily foresaw the issue, and, together with many other members, had made an escape to the army) returned triumphantly to Westminster; and the army, with much greater triumph, marched in a body quite through London, and, by means of this opposition, became more eminently powerful than ever: and thus the great city of London was made to stoop. And it may be observed in this business, (taking it wholly from the beginning to its happy conclusion) that all other persons and parties which had been much cried up for eminent power, were brought low; as the great favourites in church and state, the Scottish armies, the houses of parliament, and the royal sovereign himself, whom it pleased God to humble even unto violent death, as it was with his (and our) blessed Saviour. And as for this triumphant army, with its brave and politic commanders, Divine Providence reserved it and them to an utter dissolution, (as to that great power wherewith they so afflicted the world,) which came upon them at last, though with leaden feet. And, to shew unto those insolent commanders of the army the unstableness of their condition, it pleased God, before this personal treaty, that there was a strong design laid to draw on a total change of affairs by insurrections in diverse countries, and a fresh coming in of the Scots, who now began to understand themselves better. Yet, as is usual in matters wherein several and distant parties undertake together, these could not hold time one with another, so as some were overthrown before others appeared to stir. But, as preparatory to these troubles, the parliament, by a just judgment of God, (as a return for their own miscarriage in the same kind,) was much disquieted with tumultuating petitioners from Surrey, Kent, and other counties, who carried themselves with such violence as some of the petitioners lost their lives by the guard which attended in the new palace-yard; and the loss of these persons was so ill resented abroad, as Kent suddenly arose in a great body for the king, and, had Essex held time with them, it might have somewhat distracted the army; but the Essex-men staid till the Kentish strength was broken

at Maidstone, and then began to stir; whereupon the remainder of the Kentish men crossed the Thames, and came into Essex, where, not being able to resist a complete army, the whole party of both counties was constrained to retire into Colchester-town,[1] and was there besieged by General Fairfax, and enforced to surrender for want of provisions. About the same time the Earl of Holland made a party, and took arms on the other side of London; but, finding no assistance from the country, he retired northwards, after some damage received, and, being pursued by forces sent by the army, his party was routed at St Neots, in Huntingtonshire, and he himself then taken prisoner.[2] Neither had the Scots under Duke Hamilton any better success; for Cromwell, having gathered together a[3] competent force, fell upon them in their quarters, when they had scarcely heard of him; and he cannot be said to have routed them, for they were never suffered to gather themselves into a body, so as all that great army fell to nothing, without making the least opposition in any considerable number; and in the pursuit the duke,[4] their general, was also taken prisoner.[5] Now the army, having once more cleared the coast, had good leisure to fall into mutiny again; but it was against the parliament, and not against their officers, who made use of the common soldiers to demand justice (as they called it) against the king, and for whatsoever else they, the officers, had in their desires; and for this they found out a new and unheard-of way, giving the soldiers leave to chuse agitators,[6] being substitutes, receiving denomination from agitation their businesses, which then consisted only in meddling with affairs concerning the public. These persons were busy-headed fellows, pointed out by the officers, but elected by the soldiery, and held their assemblies, wherein they questioned all parts of the government, and proposed what new models they thought fit. This made the people in general almost mad, fearing that all would fall into absolute confusion; but the army-officers meant no such thing as parting at this time with their old masters, who had not yet done all their work, and who would be governed, as they knew by experience, which perhaps a new and more numerous representative body would not have endured; and therefore they resolved only upon the seclusion of all those members whom they had found to be principled opposite to their interest; and so, having had good trial upon our great debate concerning the personal treaty, and time to make a catalogue of such persons names as they intended to seclude, (during one day's adjournment made by the house, after having spent a whole night in that debate,) they sent their red-coats early in the morning before the next sitting, who passed the streets with great cries, and so possest themselves of the house of commons door, admitting only those members whose names they found not in their catalogue, and seizing upon many of the rest who would have entered. I question not but upon this occasion (as upon all others of great importance) they held a solemn fast among the chief commanders, to ask counsel of God for the doing of that which they themselves had already resolved upon, which (if I deceive not myself) is one of the greatest hypocrisies that the world hath known. The house of commons being thus moulded according to their desire, they presently fell upon the formalities of that most hideous

[1] The royalists retired into Colchester early in June, 1648, and the articles of surrender were signed August 27, the garrison having been starved into capitulation.

[2] On the 9th or 10th of July, 1648, by Colonel Levesay and Colonel Scroop, who was dispatched by Fairfax, with a regiment of horse from the blockade of Colchester.

[3] According to Cromwell's own account sent to the parliament, his army consisted but of 8600 horse and foot, whereas the Scots and their auxiliaries amounted to 14600 foot and 6500 horse. The dispute lasted four hours, was several times renewed, and always to the disadvantage of the latter, of whom about 2000 were slain in the battle and pursuit, and about 12000 were taken prisoners.

[4] He was afterwards beheaded, together with the Earl of Holland and Lord Capel.

[5] At Uttoxeter, in Staffordshire, on no better conditions than that of quarter.

[6] These were to constitute a house of commons to the council of officers: but the agitators, or adjutators, appear to have been set up at least a year before the period assigned them by Lord North.—See RAPIN.

(and not to be parallell'd) murther of our royal sovereign, and upon the business of putting down the house of lords, with intention to establish a perfect democracy among us: but God hath preserved us from so unhappy a change. As for myself, being one of the secluded members, I, from that time, retired me wholly from public affairs, til a farther call, which by God's mercy I lived to see, and had the happines to be a member even of that house of commons when all was disposed there for a perfect restitution of the ancient government under our most gracious sovereign Charles the Second, whom God preserve long in prosperity for his service, and for the happiness of these nations! And here I end this discourse; leaving it to better pens to set forth the continuance of that anarchy, and the miraculous ways of Divine Providence in restoring us to our sovereign prince, and to our fundamental laws, without effusion of one drop of blood in the military way.

A short Additament.

Since the finishing of this discourse, I have consulted the histories of several nations, to see if I could meet with any thing running parallel to the raising and issue of this war; but I have absolutely failed of doing it. It hath been usual for senates to take part with a power already raised by persons assuming the sovereignty: so it was with the Roman senate, when Galba had prevailed against Nero; and that senate went farther than any other within my reading; for they proceeded to a capital sentence against their prince; but it was not till the imperial dignity was in a manner possessed by Galba; and the military power was so far from being raised, or directed by themselves, as they durst not give the least countenance to it, till Nero was absolutely run down. That which cometh near to us is a levying of war by the Roman senate against Julius Maximinus, the emperor; but at the same time they invested Pupineus and Albinus with the imperial purple in opposition to him, and claimed no sovereignty in themselves; which setting up of emperor against emperor was a thing very frequent among the Romans. In these later times there have been diverse rebellions against princes, wherein senates have been concurring, but have not originally formed the opposition. So in the united provinces of Belgia, armies were first raised by particular persons, or places, and the states (or deputies of provinces) afterwards approved and concurred: and the parliament of Paris adjoined itself to the leaguers (or covenanters) against the two last Henries of France; but that parliament's actions are little to our purpose; for they are to be looked upon as no more than a standing court of judicature, wherein the peers of France are privileged to sit at pleasure, and having jurisdiction only in some part of the French dominion; (except in cases of appeal,) and, besides this, the war was neither begun nor managed under their authority. In Scotland, an assembly stiled ecclesiastical (though comprizing lay-persons) was convocated by king Charles the First, and they continued their session after his majesty's act for their dissolution, assuming to themselves a power independent upon him; but I never read that they made any order for raising of military forces for maintenance of their decrees, though it was otherwise done against his majesty. In our chronicles there is mention of diverse kings deposed, even by parliament; but those parliaments did it in compliance with a strength already in being, and they no ways either directed or concurred in raising that power. Thus have I raked together out of several histories much filth, but none of so bad savour as that contracted by our Long Parliament. There are some particulars of aggravation against that assembly, (I mean chiefly the house of commons, who, for the most part, spurred the lords into action, as to things irregularly done,) which are not applicable to any of those in foreign histories: As, first, that they levied war against their prince in their own name. Secondly, that they were assem-

bled by the king's writ, to advise him in his affairs, and therefore ought not to have acted against him. Thirdly, that they were limited by the terms of that writ, and, in that respect, ought not to have exceeded those limits. Fourthly, that they were representatives of the commons, and (though they would be otherwise exorbitant) ought not to have done things prejudicial to them, and contrary to the mind of their major part, as certainly they did, in levying of war, and in those things which ensued thereupon. And, lastly, they assumed a jurisdiction upon the king's royal person, without the least colour of right, by making substitutes (stiled by them a high court of justice) to arraign him as a delinquent, and to proceed capitally against him, even to death itself; whereas he alone was the fountain of all justice within his dominions, and nothing of that nature could regularly be done against the meanest person, but by virtue of authority, or commission from him. And all this when he was still acknowledged to be their king; for he was so stiled *in terminis* at the arraignment. This is far beyond what hath been formerly done by any other body of men, and is of so odious a condition, as pity it is there cannot be a total obliteration of it, to prevent any transmission to posterity. It hath been hinted herein, that the levying of war against the king was displeasing to the people in general; yet partly by terror, and partly by hope of advantage, the most powerful part of the nation was made instrumental in it; and this may the better be believed, because many of the most important businesses transacted in that parliament were (upon a weaker consideration) carried on contrary to the judgment of the major part of that house of commons. (I intend the sense of the house, as it was constituted at first; for, to speak of it otherwise, were like making a coat for the moon, which is never of the same dimensions, but either increasing or decreasing.) This seemeth a paradox; yet thus much I can say by experience for the truth of it, that oftentimes very many members of those who sat near me in the house gave their voice the same way that I did upon putting the question, and yet, upon division of the house, they were ashamed to own it, for then they associated themselves with our great managers of business in the way of opposition to his then majesty. Of so great force is the desire of popularity with too many, which could not but have a very great influence upon matters of greatest consequence, that were usually determined without any great disparity in the votes. Yet were not businesses always carried on in the house according to the mind and intended order of the leading persons; for the business of that protestation made in the year 1641, had been taken into consideration at a private meeting of the grandees, and was there concluded to be unseasonable. Yet Henry Martin, being unsatisfied with their determination, moved it the next day in parliament, and found the house so disposed, as a vote was presently passed for a protestation, which was afterwards worded by a select committee, and approved of in both houses: and to this the leaders would not oppose themselves, though they conceived it to be improper at that time. Having herein insinuated the different constitutions and inclinations of that house of commons, I may demonstrate it by particular resolutions, in the case of this Henry Martin, who, as well by that of the protestation, as by some other successes in the seditious way, being exalted in mind, adventured to cast himself upon a rock, and thus it was. When it had been some ways expressed in the house that the good and happiness of this nation depended upon his majesty's safety, and the continuance of the royal line, Henry Martin stood up, and "affirmed it to be a mistake; for (as he conceived) this nation might be very happy though the royal line were extinct." Upon these words he was presently questioned, and, after some debate, voted out of the house, and he continued long under that exclusion. But the war being begun and carried on, it was conceived that Henry Martin might do good service as a member, and so his restitution was moved for; but answer was soon made that he was a person dead civilly, and could not be restored to life. Hereupon young Sir Harry Vane (one of the oracles of those times) arose and said,

"That the matter was very easy to be effected, by expunging out of the journal-book that order whereby he had been cast out; and that the house was ever understood to be mistress of her own orders." This was found so ready a way, as the matter was presently determined; and Henry Martin, having notice, came into the house again, disposed to do farther mischief; and that the house was otherwise disposed before the members who fully embraced the royal interest had forsaken the parliament, may appear by the difficult saying of Sir Henry Ludlow,[1] who thus exposed himself to danger. The house had newly received a message from his majesty, which was so far from being satisfactory, as many persons speak against it with much vehemency, and among the rest Sir Henry Ludlow, who very resolutely used these terms: "He who sent this message is not worthy to be king of England." Upon saying this he was immediately interrupted, and the words that were spoke agreed upon preparatory to a charge; but before his withdrawing, in order to a censure, Mr Pym arose, and said, "That those words contained nothing of dishonour to the king," which being found very strange, he thus cleared his meaning. "If these words be such as a fair conclusion is naturally deducible from them, then they cannot be evil in themselves; but that a fair conclusion naturally ariseth from them may be proved by syllogism. He who sent this message is not worthy to be king of England; but King Charles is worthy to be King of England, therefore King Charles sent not this message. Now (saith Mr Pym) I leave it to judgment, whether or no this syllogism comprise any thing in it worthy of censure." This argument was so ingenious, as Sir Henry Ludlow (with his ill meaning) came freely off without punishment; whereas those members who were of the royal party found no such effectual intercessions, but were ejected many in a day, and the house was replenished again with soldiers and other persons (most of them) of a tribunical spirit and temper, so as no wonder it is that a body so fallen from its primitive constitution, having contracted so much evil habit, and prostituted itself to the embraces of an insolent and rebellious army, governed by commanders highly ambitious, should yield births of so horrid and prodigious a nature, which (as we hope) shall never be parallelled in any future age. And now it is more than time to conclude also this supplemental discourse, which is become greater than I myself at first intended.

Spicas aliquot lege, messem validioribus linquo.[2]

[1] Sir Henry Ludlow died a member of the Long Parliament, in 1643, and was succeeded in the representation of Wilts by his son Edmund, who resisted the usurpation of Cromwell when he acted as a general in Ireland, by an appointment from the protector's commissioners; and sustained, through a long life, the character of a staunch and conscientious republican.

[2] This piece was purchased out of the Earl of Oxford's collection; and underneath these words, in the title-page, "By a Person of Honour," was added, with a pen, "Lord North."

END OF VOLUME SIXTH.

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